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ART. I.—*Attila, King of the Huns.* By the Honourable and Reverend WILLIAM HERBERT. 8vo. London: 1838.

IT rejoices us much, once more, to be able to usher in a New Number of our Journal with a poem which aspires to the honours and dignity of an Epic. The appearance of such a poem at the present day is, indeed, an event of some interest; particularly as being the production of an author who, in his earlier compositions, appeared so decidedly to give the preference to a more romantic and irregular form of composition. It naturally suggests some speculation, not only as to the merits and prospects of this species of poetry, but as to the state of public taste and feeling on such subjects, and the chances of success or failure to which a writer may look, who aspires to build the 'lofty rhyme' in this time-honoured and classical form.

The persuasion seems to be a very common one, that the age of epics is past. The epic, we are told, is the production of earlier and less critical periods of a nation's history: its lengthened and regular march, its formal addresses, its sustained pomp, its prescriptive episodes and machinery, are assumed to be unsuited to the taste of an age like ours, far advanced in civilisation, requiring a quick movement of events and rapid succession of feelings, and a strength of passion better adapted to the dramatic than the epic form. Though the epic, therefore, might suit the childhood of poetry, the maturer growth of national taste, and the opinions induced by the changes which society has undergone, now demand, it is said, a different vehicle of feeling, conveying more accurately

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the impression of that increased variety and intensity of emotion which these revolutions have produced. Hence it is inferred that the composition of a good epic poem at the present day is extremely improbable, and its popularity with the public still more so.

If this representation be correct;—if the present age be indeed disinclined either to the production or the perusal of an epic poem, we are satisfied, at all events, that the reading public must not flatter itself with the notion that this disinclination is a proof either of its talent or its taste; or imagine that such works are suited only to a ruder state of the national mind, or to a period less illustrated by genius and originality of invention. The fact is, and it is one of somewhat ominous import, that all the great epics either of ancient or modern Europe, were the production, not of the infancy of national poetry, but of its maturity and full developement,—when the genius of the nation had been exalted and called into action by great events and spirit-stirring recollections; that their production marks the culminating point in genius and masculine taste in each nation where they appeared; and that thenceforward we witness, on the whole, but a downward progress in literature,—first towards coldness and conceit, and then, in the attempt to regain something of pristine vigour, towards turbulence and exaggeration of language and sentiment.

Homer, perhaps, is an apparent exception; but the question as to the true date of his great poems, in the shape in which they now appear, is so complicated and doubtful, that it is unsafe to draw any inferences from such a source. But Virgil wrote his *Æneid* when Augustus had made Rome but another name for the world, and when, to the recollection of her republican glories, was added all the calm and tranquil grandeur of settled dominion. It marks the period when the power of Rome was at its height, its genius most vigorous and inventive, its taste perfect: every thing afterwards is decline and decay, though disguised under a garb of rank luxuriance in Ovid, or stoical pretension in Lucan, or Asiatic pomp in Statius, or gaudy over-brilliancy in Claudian. Tasso's great epic was produced in the meridian lustre of Italian literature, shortly after Ariosto had carried to its perfection the *epos* of romance, and Berni had arrayed in graceful comic masquerade the graver strains of Boiardo; and when Leo had extended his munificent patronage to art and science, till poets, philosophers, and learned men were crowded upon each other in Italy, like stars in a galaxy. When Camoens engaged in the composition of that poem which was destined to immortalize the glory of his country,—the solitary great work of which she has to boast,—Portugal had already touched the highest

point of her greatness, and from the full meridian of her glory was hastening to her setting,—in the decay of her commerce, the fall of her liberties, and all the calamities which followed the defeat of the chivalrous Sebastian at Alcazar. But as yet a high consciousness of national pride animated her councils, nor was that generous and enthusiastic spirit extinct in individuals, which had been awakened, when, under the reign of the great Don Manuel, Alvarez and Albuquerque first launched their prows into the Atlantic, and De Gama startled the Spirit of the Cape with his thunders.

And, under what circumstances does our own great epic make its appearance? Milton stands on the outskirts of that glorious era which had listened to the majestic periods of Raleigh and of Hooker, and the almost inspired blending of wisdom with imagination in Bacon;—which had seen Spenser, in his ‘*Fairy Queen*,’ beautifully reconnecting the spirit of chivalry with that earnest and religious feeling from which Ariosto and Berni had divorced it;—that age which had witnessed the infinite variety, and bent before the magic and the mastery of Shakspeare. His own life was chiefly cast in those days of tempest and trial which develop the strongest energies both of the will and the imagination, and superadd to the attraction of an imaginative and poetical interest all the fascination of deep faith and earnestness of action. Thus educated in the close of the former period, and witnessing the dawn and the meridian of the latter,—uniting the chivalrous recollections of the Elizabethan age, with the enthusiasm of principle and intensity of will which characterise that of the Parliament, he gave birth to that great epic, in which, more perhaps than in any other single work, we recognise the imposing and majestic character of that period; when the seal of authority and high moral dignity was set upon all the productions of literature as upon all the institutions of polity, and Britain, foremost in arts and arms, cast the shadow of her greatness over land and sea.

In every case then, we repeat, the appearance of a great epic has been coincident with the period of the highest developement of genius, and with the most masculine state of taste in the nation by which it has been produced. There are no epics produced in the evil days of a nation's history. Their very existence presupposes a crowd of ennobling remembrances in the national mind;—a past to which it can revert with pride—a present to which it can turn without dishonour. It presupposes, in the individual mind, a grasp and comprehension of view—an indifference to petty beauties—a power of rising above the passing interests and changing fashion of the time, and a confidence in after ages, which are all connected with the higher manifestations

of genius, and the simplest and most dignified condition of taste. Were it true, then, that the present age was incapable of either producing a great epic poem, or of appreciating such a boon at the hands of a great poet, this would, in our view, be only equivalent to saying that we had lost our relish for the simply great, and our power of apprehending a work,—not in parts, but as a whole; and, consequently, that we had fallen from the purity of our first intellectual estate; and—however unconscious of our backward movement—had retrograded, instead of advancing, in the career both of taste and imagination.

But, with all deference to the common notion of an anti-epic tendency at the present moment, we really entertain a better idea of the direction of public taste in poetry, than to suppose, that this insensibility to the noblest form in which poetry has ever yet displayed itself, can exist. We say at the present moment, because we should have stated our opinions on the point much more doubtfully some twenty years ago;—if, indeed, we had not felt ourselves compelled to adopt the truth of the objection to which we have adverted, and to regard the epic as an obsolete form of poetry, which never more could be made to harmonize with modern tastes. At that time, the current of opinion was so strong in favour of a return to the ruder and wilder strains of our elder minstrelsy; there was so clamorous and insatiable an appetite for scenes of excitement,—such intolerance of every thing measured and tranquil, either in plot, sentiment, or expression,—that it did appear as if any poetry of a calmer and more classic nature was permanently superseded. We do not blame that revulsion of poetical taste towards the fountain-head. It was a natural one, and we believe it has, in some respects, been a beneficial one. Poetry, deprived of all spirit and vitality, had begun ‘to cream and mantle like a standing-pool.’ It was something gained, therefore, to break down the barrier—to let the imprisoned waters loose, and give them life and motion,—even though the torrent thus produced was, as might be expected, turbid and muddy enough. But, if still waters become monotonous, men tire also in time of torrents and cataracts—which leave behind them nothing that freshens, nothing that fertilizes—and long to see the useless current spread forth into an ampler and calmer channel; and gliding down to the ocean with pleasant interchange of motion and rest;—here reflecting earth and sky in its shadows, and there fretting over its pebbled bed, or rippled by ‘the breath of heaven, fresh blowing.’

It has fared thus with our poetry of passion and ‘the movement.’ We have already extracted from it all, or most of the good which it was calculated to yield; and now the bitterness of

the lees which remain begins to be apparent. We are surprised, and half ashamed to confess what crude and fiery draughts we have occasionally drained without dissatisfaction during the period of excitement; and a visible inclination, we think, begins to be traced towards a return to a healthier spring of inspiration—‘a draught that after no repenting draws.’ Poetry seems prepared to take for her motto the inscription on Italian tombs, *implora pace*. After so much doing and suffering, she asks for rest. And though the public can scarcely be said to have yet acknowledged, by any overt acts, their renewed allegiance to those better models which they deserted, they at all events manifest the most profound indifference for those themes, and that style of composition, which at no distant period formed the object of popular admiration. The traces of some such convictions appear very plainly in Lord Byron’s excessive admiration for Pope, and his severe denunciations of the whole spirit of modern poetry—both his own, and that of his contemporaries—whom he terms the poets of ‘the lower empire,’ and accuses of being led astray by ‘a wrong, revolutionary poetical system.’ This over-admiration of Pope is the natural result of the tendency to an opposite extreme, produced by Lord Byron’s sense of the hollowness of the system on which so much of his own poetry was composed; and we are no more disposed implicitly to approve of his new creed, than to give our unqualified admiration to the style and taste in which his own works are written. But the silence of all our modern poets by whom this passionate and irregular mode of composition was countenanced and adorned, sufficiently shows that they regard it as in a manner exhausted. No man of genius, united with discernment, who had to select a subject for poetry, would be likely, we think, at the present day, to choose for his theme ‘those songs to savage virtue dear,’—with their wild passions, and corresponding eccentricity of character and movement—round which Sir Walter Scott shed so brilliant a lustre; and which, assisted by the fascinations of novelty, and his unequalled power of picturesque delineation, for a time led captive the public sympathy; nor those pictures of moody, distempered, and selfish passion which, in the powerful verse of Byron, seemed to lose their essentially coarse and melodramatic character, and became really invested, for a time, with a delusive dignity and unreal grandeur. Nor, on the other hand, does the high and palmy state of the stage at this moment, nor the success of most modern dramatic attempts, hold out greater inducement to the poet to devote himself to that species of composition. If he soften away his scenes, or modify his characters and expressions to suit the fastidiousness of modern taste, he is accused, and perhaps justly, of



coldness and feebleness : if he venture on the strong language, or startling conceptions of the older masters of the drama, he runs the risk of being accused of coarseness and indelicacy. Abandoning the one class of compositions as exhausted, and repelled by the dangers attendant on the other, the poet of modern times who aspires after any thing great, is in a manner impelled towards that species of composition—once recognised as the highest, and which now, by its very antiquity, has again acquired an air of novelty ;—and thus, on the whole, we have a strong persuasion that, with the increasing tendency towards the intellectual in poetry, in preference to the merely passionate, it would be, in the department of the epic, that a great poet would, at this moment, find the best opening ; and that when such a poet shall be found to devote himself to the task, and worthily to fulfil the high conditions which it imposes, he may rely on finding ‘fit audience,’ and that ‘not few.’

We have said, then, that we do not think so ill of the present times as to suppose, that if a great poetical work in an epic form were now produced, it would fail in attaining popularity from any insensibility on the part of the public to that species of composition, or incapacity to appreciate its merits. But if we think that the power to produce and the capacity to admire such a work does exist, is there really any reason to think its appearance unlikely, or its popularity, in the event of such appearance, questionable ?

Every difficulty of this kind—which we have heard stated seems to us to resolve into an objection founded, not on the essentials of the epic, but on its accidentals. It is not that the main features of the epic may not be successfully reproduced, but that there is little probability of its revival in the same garb and with the same ornaments, poetical devices, and mechanical arrangements adopted by the previous authorities in epic poetry. Such speculations all overlook the fact, that what are called the *rules* of epic poetry are neither more nor less than mere statements of the *practice* adopted by the great masters in this department, in reference to the particular subjects they have selected ; and that, as on the one hand, the observance of all of them will never make an epic poem, so, in the hands of a man of real genius, the absence or violation of all of them will never deprive it of that character. Reduced to its essentials, the epic must be of as permanent a character as poetry or human nature itself. While we possess ‘organs, dimensions, senses, affections, passions,’ and sympathize in others with the movements of those natural affections of which we are conscious in ourselves, so long must ‘the recital of some great event in a poetical form’—the

contrivance of a plot important in itself, and instructive in the reflections which it suggests—‘filled with suitable incidents’—‘enlivened with a variety of characters and descriptions’—maintaining throughout ‘propriety of sentiment and elevation of style’—(the description of an epic given by Blair)—will continue to have a permanent interest for every cultivated mind; and to be justly regarded as presupposing for its construction a greater variety of excellence than is required for any other work of human genius.

True it is, indeed, that an epic poem of the present time will probably be in many respects very unlike the received models from which our canons of criticism on such subjects have been generally drawn. It will bear the stamp of the age in which it appears. Its modes of producing its effects will be different. It will address feelings formerly but partially developed: it may touch lightly on springs of emotion formerly of paramount influence and importance. Much that, by prescription at least, if by no better title, had come to be considered as part and parcel of the epic, it will throw aside as unsuited to the change of feelings which has taken place on vital questions of opinion as to society and morals; while it may substitute in their room much ‘that would have made Quintilian stare and gasp,’ and would have struck the heart of Bossu or Du Bos with ‘a sense of huge affliction and dismay.’ It will carry, to a great extent, the modes of thoughts and opinions of the present age back into that where its scenes are placed; it will unconsciously animate the actors of the story with feelings and impulses, to which they were in a great degree strangers; and thus certainly give to the poem a character which, at first sight, may appear essentially different from that of preceding epics.

But is not the difference, after all, apparent only, not real? Is not the principle of composition, after all, the same? Have not all preceding poets, in truth, imparted to their compositions their own feelings and the character of their age? Is it even possible to do otherwise?—to step out of the influences by which we are surrounded, and to paint men and actions with a colouring uninfluenced by the light and shadow which our own habits and prejudices throw around them? At all events, no one, so far as we know, has ever made the attempt. Virgil gives to his Asiatic Greeks the manners and the religious opinions of the Romans of the days of the empire; and the warm truth of the episode of Dido is evidently not a little increased by the recollection of the recent tragedy of Cleopatra. Is it not plain to the most superficial observer, that Tasso has carried back into the days of Godfrey of Bouillon that refinement of manners and sen-

sibility of feeling which had been the growth of five intervening centuries ; that the melancholy and love-lorn Tancred, in whom we trace a shadow of the enthusiastic poet himself, is a creation of the fancy, wholly inconceivable as an actual existence in the rude times in which he is placed ; and that the same partial violation of actual truth by the introduction of modern feelings characterises the whole of the beautiful episode of Erminia ?

Does not Milton, again, carry into the councils of Pandemonium, and the occupations of his angels and devils, the discussion of those very questions of 'fixed fate, free-will, foreknowledge 'absolute,' and that 'study of revenge, immortal hate, and courage never to submit or yield,' which animated or agitated his own mind and that of half the members of the Long Parliament? Is not his very scheme of Paradise itself but an impersonation of those visions of Church and State—of the rights of men uncircumscribed by Government—of their happiness and innocence until corrupted by the influence of Society—by which his own imagination was haunted, and which he has thus carried beyond the visible diurnal sphere into ~~that~~ shadowy world to which it had given birth? Such, so far as we can perceive, has been the practice, if not the theory, of every great poet. He must view the past through the medium of the present, if he would maintain his hold on his own times, or secure an influence over the future. He must lay a firm basis in the feelings and habits of thought which are common to his own age, before he can bespeak attention to his pictures of a former. Nor in all this, when performed with due discretion, need there be any violation of the essential truth of character. 'Poetry,' as Bacon says in a sentence replete with wisdom, 'is the accommodation of the shows of things to the desires of the mind:' it implies the exercise of a plastic power by which they lose, to some extent, their real shapes, and are moulded into a part of ourselves, instead of standing aloof as separate existences. Such and such a being may not, 'in his habit as he lived,' have appeared exactly in the form under which he is poetically represented ; he may have spoke a ruder language ; the feelings we ascribe to him may have been but dimly felt by him, if at all ; but, assuming the main features of his mind to have been such as described, and the course of events to which he is subjected to remain the same, **thus** he would have thought and felt and spoken in a later period, had an inspired poet lent him imagery and words ; and thus the **result is something**, which, though it may not have existed in any one point of time or space, has yet a permanent reality for all countries and all ages, and is at once a fiction and an inspired poetical truth.

We anticipate, then, no great difference in the main outlines which a modern epic is likely to assume. But we shall probably shorten the dialogue, and abridge the pomp and formality of the speeches. We shall, very likely, be somewhat disinclined to the introduction of formal episodes, and impatient of their length, if they appear to interrupt the current of the main narrative, or to be introduced (as in modern epics, at least, has been too much the case) as mere vehicles of elaborate description or ornament. We anticipate, also, more minute descriptions of feelings and states of mind; a more obvious attempt to connect the descriptions of external nature,—in which all epic poets, from Homer downwards, have luxuriated,—with the mental emotions of the characters, and to show how the one operates upon and gives its colour to the other;—an omission entirely of catalogues of ships, and muster-rolls of forces, and long legendary tales, and ‘Chronicles of British Kings, from Brut to Uther’s rayne;’—and lastly, a great restriction of the province of machinery, if not its entire abandonment.

We are aware that the idea of dispensing with machinery in an epic poem may appear a stumbling-block to some. And doubtless such a notion would have appeared the darkest heresy to the venerable critics by whom the canons of the epic have been laid down. ‘Without black velvet breeches, what is man?’ says the poet. ‘Without machinery,’ say the French critics, ‘how can you conceive of an epic poem?’ Mark ‘the absolute shall’ of old Father Bossu on the subject.—‘On peut dire *en un mot* ‘*qu’il faut user de machines partout, puisque Homère et Virgile n’ont rien fait sans cela.*’ But, with deference, even Homer and Virgil have done a great deal without machines. Nay, had Jupiter never lent a hand to assist the Greeks, nor Venus exercised her wiles, and Mars his weapons in the Trojan cause, the anger of Achilles and its consequences, with the pictures of human feelings which are set before us, would, even in the Greeks, we think, and certainly in ourselves, have exerted much the same strong sense of interest and sympathy. For would there not remain the powerful contrast of his generous and indomitable spirit, loving and hating in extremes, with the sustained grandeur and worldly prudence of Agamemnon,—and the mournful interest with which we regard his fate, knowing that he comes to that fatal campaign foredoomed to die? What are the incidents that in Homer’s great poems are perused and reperused with the most interest, and which even now, at the distance of two thousand years, waken an answering chord in all hearts? Not the councils upon Olympus, nor the quarrels and intrigues of contending deities, nor the wiles of Juno and Venus; nor the prodigies produced by the

mingling of immortals in the ranks of men,—powerful and striking as are many of these descriptions of superhuman agency;—but Hector, smiling and setting down his crested helmet that he may not frighten his boy; Helen, fascinating even amidst her weakness, inspiring even Priam and the elders of Troy with something of the admiring feelings of youth as she draws near to them, graceful and modest, upon the walls; Priam kneeling at the feet of Achilles, who had slain his son, and the relenting of that proud heart at the sight of him whom he had bereaved; Helen's lamentation over the corpse of 'the brave and gentle-hearted,' who, when his mother or his brothers had upbraided her, had never spoken to her a word of harshness or rebuke; the graphic and characteristic quarrels of the rival leaders of the Grecian host; the adventurous night-expedition of Diomed and Ulysses; the recognition of Ulysses by the faithful Argus, who lives only long enough to know his master and to die:—these, and many passages such as these, with which supernatural agency has nothing to do, are in reality those which have rendered the works of Homer a *κρημεν εις αιωνι*—a work for all time, a possession for eternity.

With Virgil, again, does not every one feel that it is not the mere machinery of deities, and sibyls, and bleeding trees, nor even the apparition of Hector (though with that species of machinery a modern can better sympathize), that pleases us in the *Aeneid*, but the human terrors, and strangely-moving accidents of that grand night-picture of the sack of Troy,—and the warm human truth of the hapless passion of Dido? And, in the *Gerusalemme*, could we not, notwithstanding the splendid and sonorous majesty of the versification, spare the descriptions of the counsels of evil spirits, and the machinations of pestilent enchanters (we shall not say enchantresses, for we should be loath to surrender Armida and her Bower of Bliss) without any injury to the effect of the poem;—so long as we could retain the well-drawn and contrasted characters of the Pagan and Christian leaders; the chivalrous enthusiasm of the siege and defence; the deep tenderness which is breathed over the flight of Erminia, turning in the still moonlight to gaze on those Latian tents where Tancred lies; the 'pastoral melancholy' of her woodland residence with the shepherds; the touching death of Clorinda losing her life by the hand of him who would have sacrificed his own to save her; and the many other scenes of mere human feeling which must occur to every one who is familiar with this beautiful poem? In Milton, no doubt, the machinery is of more importance, and less separable from the poem; and for this plain reason, that the supernatural beings are truly the heroes of the poem, and the

human comparatively secondary and episodical characters ;—yet what would the poem be but for the scenes in Eden, and the human pair which it shelters, ‘imparadised in one another’s arms?’ It is in reference to them and their fortunes and fate that all the supernatural machinery around them acquires interest and significance ;—that we share in the interest produced by the debate of the fallen cherubim, and watch with an ominous presentiment, the onward flight of Satan ‘coasting the wall of heaven on this side ‘night,’ upon that evil mission, of which the object was the fall of man. Remove the whole apparatus of the invisible world from the poem, so far as its actual interference is concerned, and the work, though shorn of its beams, would still be a great and interesting one; but blot out the human actors from the scene, and we leave behind but a vague phantasmagoria, to which our sympathies cannot attach themselves.

In truth, then, we are hardened infidels as to the whole doctrine of the necessity of such supernatural ornaments in an epic poem ; and are very much inclined to think that at the present day no other machinery is required but the machinery of thought and intelligence. And yet, if by machinery be merely understood the supposed control exercised over human thoughts and actions by the influence of immaterial and invisible beings, or intimations derived in some way or other from another world, we see no reason to think that machinery in some shape may not always continue to be available as a source of interest and embellishment to the poet. True it is,

‘The enchanting race of fairies are no more,  
The deities of old have wandered out ;’

and for the rites of witchcraft, and the power of spells, there is scarcely even that qualified belief (for we hold even a doubtful faith to be sufficient), which would render them available as poetical instruments in exciting the imagination. But still there remains a field within which the supernatural may yet be employed with effect in poetry. Admitting, as every one who recognises the distinction of body and spirit must do, the existence of a world distinct from that outward and visible one in which we live and labour,—encompassed as we are, on this side and on that, by a canopy of eternity, and reminded, where we have time to think at all, of higher powers by which human counsels are controlled,—it will, in all probability, continue natural to the human mind, so long as these convictions and impressions endure, to believe, while in states of excitement, that this agency does occasionally make itself visibly or sensibly felt,—‘striking in like a finger from the clouds into the ‘calculated machinery of human affairs,’ and ‘accelerating or retarding the stroke of fate. What form this sensible represen-

tation of supernatural power may assume, will depend on the habits of the individual and the intelligence of the time. Even at this moment we should be disposed to say, that spectral agency, however little it may be a matter of belief with men of education, still retains sufficient influence over the popular mind to be used with success by a poet of genius;—keeping in view always that there is no species of machinery, which, if overstrained or divested of that awful obscurity in which it ought to be involved, becomes more vulgar or even ludicrous. In the same way we should say, that the impressions produced by dreams, and the faith in presentiments, rejected as they are by calm reason, do, in certain states of our strangely constituted frame, assume a reality, and exercise an influence even over men of education, and still more over the popular mind, which render them not unfit or unimportant engines of poetical effect. And when it is further kept in view, that by a prescriptive rule,—which is really founded on something better than prescription, namely, experience and good sense,—no epic poem can well be written on any events of *recent* occurrence, we should say that, to those who still think machinery of this kind an indispensable accompaniment, there remains at present a field quite wide enough for their purpose; and we should be disposed to add, that so connate and connected with our religious belief appears to be the theoretical admission of the *possibility* of such visitations, that in some shape or other, the principle of supernatural agency will always remain available to the poet, be his subject or the period which he chooses, what it may.

But we feel we are dealing too long in generals. The result of the foregoing somewhat desultory observations is simply this,—That we do not despair of seeing a good epic produced and admired in the present age; that though such a work will probably assume a different character in details, the main outline remains of permanent interest, and will continue, in the hands of a man of genius, to produce the highest and most satisfying effect; that the particular ornaments or peculiarities which are not likely to be reproduced, are accessories of no essential value or importance, and that even as to the most important of these—the embellishment derived from the supernatural—there is no reason to think that the poet will be deprived of that source of interest, however much its limits may, in a period of more general instruction, be narrowed.

But the more important question, it may be said, is, How far does the poem before us justify the hopes here expressed? Is ‘*Attila*’ an epic poem; or, if so, to what rank is it entitled to aspire? Is it a work of genius, or a mere piece of poetical mosaic, made up of the materials of other epics, and cunningly

contrived and put together according to the most approved rules and models of poetical architecture?

This is not a question to be answered in a sentence with regard to a work like the present—the result evidently of profound study and long consideration—and which we cannot but feel unites considerable faults and defects with great and sterling beauties. It is due to its accomplished author, and it is even necessary to the understanding of the few general observations we may be inclined to offer as to the merits and demerits of the work, to allow Mr Herbert to speak for himself, in the first instance, by exhibiting pretty liberal extracts from his poem, connected only by such a commentary as is necessary to render intelligible their mutual dependency and relation to the whole.

‘The subject which I have chosen,’ says he, ‘is the firm establishment of Christianity, by the discomfiture of the mighty attempt of Attila to found a new antichristian dynasty upon the wreck of the temporal power of Rome at the end of the term of 1200 years, to which its duration had been limited by the forebodings of the Heathens.’ And in another portion of his preface, he expresses a hope ‘that the general historical truth of the poem may cause it to be looked upon in a light a little different from mere works of imagination.’ Now this, we think, is a point of view in which no poem is entitled to be considered; the presence of historical truth could weigh nothing against the absence of those qualities we are entitled to expect in a work of imagination; fortunately, however, the work does not require to be defended upon any such questionable ground.

The poem opens with a night picture of the field of Chalons, covered with corpses of the slain, after that dreadful battle, in which Attila had, for the first time, sustained a repulse from Aetius, though his rival, Theodoric the king of the west, had fallen, and the Christian troops, scarcely aware on which side the victory lay, had retreated. Visions and omens of ghastly import are witnessed on that field of carnage by the army of Attila, as, intrenched behind their wains and scythe-armed cars, they await the dawn of day.

‘A sound articulate,  
Louder than human (like that fatal voice  
Which once in Athens broke the awful pause  
Between heaven’s angry bolts, and made each hair  
Stand bristling on the heads of those who heard,  
Calling to Hades the incestuous king \*  
Branded by Fate) with strange heart-withering dread

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\* *Œdipus Coloneus*. Soph.



Appalled each host ; and some averr'd a face  
 Look'd through the gloomy curtain of the dusk,  
 Upon that bloody field, from heaven's high cope,  
 So full of terror, that the stoutest hearts  
 Shrank with dismay, and the tumultuous din  
 With all war's thousands became still as death.  
 Thus the lorn habitants of that famed town,  
 Fabled in Araby, which heard her doom  
 Spoken at midnight, when her sons were changed  
 All in the twinkling of an eye to stone.'

The morning dawns through mists, revealing the extent of the slaughter, and Attila moves over the plain, examining, with his chiefs, the mass of arms, chariots, and corpses by which it is deeply strewn. This is a powerful passage, though too long drawn out. We quote the opening lines:—

' The ample field,  
 Which, but short hours before, was redolent  
 With herbs and healthful odours, now upturn  
 By thousand hoofs, batter'd beneath the strength  
 Of wheels, and horse, and man, a barren mass  
 Of dark confusion seem'd ; a trampled waste,  
 Without the blush of verdure, but with gore  
 Distain'd, and steep'd in the cold dews of death.  
 Thick strewn and countless, as those winged tribes,  
 Which clamouring blacken all the grassy mead  
 In sickly autumn, when the wither'd leaves  
 Drift on the moaning gale, lay swords and pikes,  
 Bucklers, and broken cuirasses, and casques,  
 Shower'd by the pelting battle when it rush'd  
 With such hoarse noise as doth the foaming surge  
 Upon some rocky ledge, where Æolus  
 Bids foul winds blow.'

While engaged in the examination of the field, Attila is struck by the apparition of that mysterious Deer which had first led the Huns into Europe. Regarding this appearance as an intimation from those secret and evil powers of which he believes himself the instrument, he dashes off in pursuit of the animal. The Deer vanishes in a wild and romantic mountain solitude ; and Attila finds himself surrounded by the Alirunæ, the wizard progenitresses of his race. He calls on the great Spirit of Evil, who is evoked by their spells, to unveil to him the face of nature, and to show him the things that shall be hereafter. A splendid vision follows, embodying the outlines of the future contest of Paganism and Christianity, in which the Tempter promises Attila a career of success, and his long-wished-for triumph over Rome. Darkness descends upon this scene, which occupies

the second Book ; and Attila returns to the camp ' where thou-  
' sands wait his will to live or die,' to prepare for the great sacri-  
fice of his Christian captives,—a solemnity by which he hopes to  
wipe off from his army the impression of their partial defeat.  
The following lines exhibit a graphic portrait of the savage  
leader :—

' Terrific was his semblance, in no mould  
Of beautiful proportion cast ; his limbs  
Nothing exalted, but with sinews braced  
Of Chalybean temper, agile, lithe,  
And swifter than the roe ; his ample chest  
Was overbrow'd by a gigantic head ;  
With eyes keen, deeply sunk, and small, that gleam'd  
Strangely in wrath, as though some spirit unclean  
Within that corporal tenement install'd,  
Look'd from its windows, but with tempered fire  
Beam'd mildly on the unresisting. Thin  
His beard and hoary ; his flat nostrils crown'd  
A cicatrized swart visage ; but withal  
That questionable shape such glory wore,  
That mortals quailed beneath him.'

A description follows of some of the leaders of his camp ; or  
his favourite queen, Eskam, at once his daughter and bride ; and  
a long, and to us somewhat tedious enumeration of the prepa-  
rations for the sacrificial rite—relieved, however, by a very  
beautiful episode, describing the death of a Christian pair,  
Ostorius and Lucelia.

After the completion of the bloody rites, the army retire to  
their camp, prepared to advance their banners on the morning  
against the Christian host. On one heart, however, the noble  
constancy of the Christian martyrs has produced a deep impres-  
sion ; that of Mycoltha, daughter of the King of Bactria, on  
whom the Hunnish King has long looked with eyes of impure  
passion.

' Still to her fancy's ear  
The hymn of Christians, and angelic sounds  
Rose on the night ; and, with a smile serene,  
Lucelia, in immortal beauty robed,  
Seem'd to invite her unto realms of hope,  
Unknown, unthought before. Whether the charm  
Of suffering virtue o'er her soul had thrown  
The bland illusion, or her angel's voice  
Whisper'd those strains seraphic, to allure  
The willing soul from darkness to its God ;  
Then first the day-spring of religion beam'd

Upon her tremulous thoughts : all else around  
Lay steep'd in utter gloom and heedless sleep.'

Mean-while Satan prepares to aid by guile the arms of Attila. He fixes on Honoria, the sister of the Emperor Valentinian, as a fit instrument for his purpose ; a woman equally ambitious and devoted to pleasure,—who, banished from her brother's court on account of her illicit amours with the chamberlain, Eugenius, is residing in a sort of religious seclusion with Pulcheria, the strict and austere sister of Theodosius. The fiend, assuming the shape of the holy hermit Cyprian, springs from the summit of *Ætna*, from which, in the opening of the fourth book, he takes a view of the state of the subject world, forward upon his mission of temptation.

He finds her seated in a secret oratory, with her eyes gazing wistfully out upon the blue waters of the Bosphorus and the hills of the east. Entering softly under his holy garb, he opens his designs by insidious praises of her beauty, and expressions of pity for her seclusion ; and at last proceeds to announce that the hour had arrived when it had been revealed to him that a mightier than Christ was to arise and to hold dominion upon earth.

‘ “ The hour is big  
With portents of eventful time. Arise,  
First of thy sex, upon whose brow must shine  
The diadem of glory ! Thou art called  
To be the highest, as thou art most fair.”  
‘ The tempter ceased ; and full the snow-white orbs  
Of that proud damsel’s bosom throbb’d and heaved  
With passions manifold ; impatient fires,  
That, smouldering in retirement, now burst forth ;  
Vain-glory, flattered by insidious praise ;  
Indomitable thirst of pomp and power.  
“ Speak on, thy daughter heareth,” with low voice  
Tremulous she murmured. Sure of purpose he  
His guile pursued. “ The age of promise dawns  
Upon the nations : from the cloud-capt brow  
Of Cretan Ida have the gathering Jews  
Heard voices strange and holy, such as once  
Thunder’d from Sinai, when the law was first  
To man revealed by Moses. He, foretold  
To come hereafter in the mighty spirit  
Of that famed legislator, shakes the fanes  
Of the great harlot, Septimontane Rome.  
Honoria, thou art called from holy walls  
To be that great one’s bride, and sit enshrined  
In godlike pomp on the Tarpeian. Send  
Fast pledges of thy love to him who wields  
The flail, wherewith the nations must be purged,

Imperial Attila ; and bid him claim  
 Half of Rome's having for thy dower. That done,  
 Wait silent the almighty march of time."

Thus said, his form waxed glorious ; youth divine  
 Came like a sunbeam o'er his brow, from which  
 Dark hyacinthine tresses waving shook  
 Ambrosial incense, odours breathing love.  
 \* As whilom, from the bath of Gadara,  
 The wizard in Decapolis called up  
 The blooming Anteros, and sudden he  
 Rose dripping hot, and shook his raven locks  
 Luxuriant, and by Eros golden-haired  
 Equal in beauty stood. So looked the fiend,  
 While the new lustre, which informed his eyes,  
 Spoke things unutterable.'

He then disappears, imprinting a glowing kiss on the lips of Honoria, and leaves her to dream over the projects of pleasure and ambition which his speech has suggested to her mind. His next attempt at seduction, however, is less successful, as might be anticipated ; for it is directed against the sacred pontiff himself, as he sits, care-worn and anxious, viewing the marble domes of the great City, which lies 'steeped in silence beneath.' Him he assails in a speech of plausible sophistries, partly appealing to his fears, by arraying in dark colours the ruin which threatens Rome from the approach of the Huns, and partly tempting him, by the prospect of increased dominion, extended life, 'unchanging youth and vigour to enjoy'—'while sacerdotal glories over 'all shall throw the robe of sanctity.' But the pure-minded and firm-hearted Leo spurns the temptation and the tempter, in a strain of indignant eloquence ; and the baffled fiend retreats, shorn of his glory, leprous and defiled. Ere he vanishes, however, he, with bitter sarcasms, prophesies the future superstitions and corruptions of the church and churchmen ; the canonization of Pagan divinities as Christian saints ; the adoration of the cross, and the institution of religious orders,—'forbidding wedlock, but 'in private hours wedded to all incontinence.' He is more successful in his attempt on 'the dark conclave of Arian Bishops,' who are ready to league with Attila and heathendom, in order to exalt 'the name of their heresiarch.' The book concludes with a severe denunciation of schismatics, which might, we think, without injury to the poem, have been omitted ; though we must give the reverend author credit when he says in his preface, that he intends 'nothing polemic towards any person of 'sect of the present day.'

The fifth book opens with a banquet in Attila's Pannonian capital Sicambria, and the delivery to the Hunnish monarch of Honoria's message, who tenders her hand and 'her birthright, 'half Rome's empire.' Attila hesitates not to accept the offer. With the next morning's dawn he despatches 'his challenge for 'the beautiful hand of the sequestered damsel,' with the full purpose of invading Italy with the earliest blush of spring. Mean-time, however, in Byzantium, Honoria's guilty project has reached the ears of Pulcheria. An interview takes place between them, in which Pulcheria bitterly reproaches her both for her first guilty love, and this last unblest alliance which she contemplates with the enemy of God and man,—'terrific, both in mind 'and mien deformed, hell's dread vicegerent.' This is Honoria's eloquent and ingenious pleading in defence :—

' " If it be evil, nor unmoved, nor cold,  
 To gaze on God's creation; those green hills,  
 Where the mild breeze of freedom ever blows,  
 To me denied; and that majestic sea  
 Sparkling beneath, which one while, chafed with winds,  
 Swells as it would o'ertop them; one while, spread  
 Like a pure mirror of serenest blue,  
 Gives back their aspect in smooth peacefulness,  
 Image of varied life, which heaven ordain'd  
 To be the lot of mortals; if it be ill  
 To deem His gifts of beautiful or sweet  
 Created for the use; Honoria's heart  
 Hath err'd, responsive to the voice that speaks  
 From all his works. Did He, who formed the eye,  
 Forbid it to look forth on the fair shapes  
 Which He hath fashioned to delight the soul  
 Through that bright inlet? He, who made the heart,  
 Deny its pulse to throb? He, who has breathed  
 The fresh prolific spring, of power to wake  
 All nature, with a seraph's minstrelsy,  
 From the dull couch of winter! He, who bade  
 The lay-rock carol his o'erflowing bliss  
 Up to the gates of heaven! give youthful bloom,  
 Not unadorn'd with such brief attributes  
 As charm the sense, to be immured unseen,  
 Joyless and unenjoy'd, in living death?  
 A witness breathes in every genial wind!  
 The day, the morn, the dewy fall of night,  
 Has each its several voice, that utters speech  
 Gone forth unto the uttermost parts of earth  
 To do His bounteous bidding! to declare,  
 That what he freely showers upon his works  
 Should, to His glory, be as freely used!

Not grandeur, though the blood of Cæsar beat  
 In these full veins, not frail desires have turned  
 My heart to heathendom ; but tedious hours,  
 Nocturnal orisons, and vigils cold,  
 To which the worst varieties of life  
 Were as a devious garden set with thorns,  
 But breathing joy.'

Pulcheria, however, is unmoved by this appeal ; she intimates that Honoria's fate is determined ; and that the barque is already awaiting which is to bear her back to the court of her brother, there to expiate in a dungeon the sinful designs on which she has been brooding, and to await, either with fear or hope, her deliverance at the hand of death. She is hurried on board, and the vessel soon is under way :

' Pensive she view'd the deep, whose clear blue waves  
 Heaved beauteous, softly as from Chalcedon came  
 The balmy breeze ; adown Propontus smooth,  
 By Sestos and Abydos, glided slow  
 The lightsome barque with living canvass spread ;  
 Seen from Caphareus far beneath the sun,  
 Like a bright seamew, on the azure way  
 Threading the Cyclades.'

To sail through these seas unmoved, or without kindling into the enthusiasm awakened by classical recollections, is to a scholar impossible ; and Mr Herbert yields, nothing loath, to the temptation.

' Who, O who hath view'd,  
 Untouch'd with rapture, those sun-lighted seas,  
 Fancy's primeval cradle ! where each rock,  
 Each hoary headland breasting back their foam,  
 Each mountain's glorious summit, with the voice  
 Of other times, speaks music to the heart ;  
 Waking once more the notes, attuned of old  
 At Elis to the touch of golden lyres,  
 And oft at rocky Pytho, where the bard  
 Of Greece upon the laurel'd victor breathed  
 Immortal inspirations ! Who hath look'd  
 On those bright islands in the Ægean deep,  
 Famed Athens, or thy huge Cyclopean gate,  
 Mycenæ ! nor from each time-honour'd shore  
 Felt breezes redolent of glory blow !'

The voyage is over : Honoria, once more in Italy, is consigned to a dungeon in Ravenna ; allowed only the choice between death by poison and being united to a wretched object de-

prived of sight ; the usual means then resorted to to render the unfortunate victim incapable of reigning. She hesitates for a time between the coffin, which stands yawning to receive her, on the lid of which her name stands inscribed, and the scarcely less horrible alternative of a union with the being—

. . . . 'time-blanced,  
With sunken orbs, that told the visual ray  
Extinguished, nigh the beauteous the victim stood,  
And with decrepid hand a bridal ring  
Held tremulous.'

After several attempts to drain the fatal cup, unequal to confront 'the dim and unforeseen futurity,' she stretches out her hand to the detested bridegroom, and receives the nuptial blessing ; then, in an ecstasy of grief and despair, endeavours to seize the fatal draught she had declined, and casts herself baffled 'into 'the loathsome grave, imploring death.'

The commencement and the end of a book or canto have always been prescriptively conceded to the poet as an appanage of which he may dispose at his pleasure ; and, accordingly, Ariosto, and, in imitation of his Italian masters, Spenser, invariably makes use of these as a vehicle of general reflection, and a sort of pause or resting-place in the progress of the main action. Mr Herbert avails himself of the same privilege. The funereal character of the scene which he has been describing suggests to him the mystery of death itself ; and, however much we might feel disposed to abridge the diatribe against heretics, with which the immediately preceding book concludes, we certainly feel no wish that the fine apostrophe with which this one terminates should be curtailed. The beauty and pathos of the concluding lines, we are sure, all will admire and sympathize with.

'How oft, at midnight, have I fix'd my gaze  
Upon the blue unclouded firmament,  
With thousand spheres illumined ; each perchance  
The powerful centre of revolving worlds !  
Until, by strange excitement stirr'd, the mind  
Hath long'd for dissolution, so it might bring  
Knowledge, for which the spirit is athirst,  
Open the darkling stores of hidden time,  
And show the marvel of eternal things,  
Which, in the bosom of immensity,  
Wheel round the God of nature. Vain desire !

. . . . . Enough  
To work in trembling my salvation here,

Waiting thy summons, stern mysterious Power,  
 Who to thy silent realm hast call'd away  
 All those, whom nature twined around my heart  
 In my fond infancy, and left me here  
 Denuded of their love!

Where are ye gone,  
 And shall we wake from the long sleep of death,  
 To know each other, conscious of the ties  
 That link'd our souls together, and draw down  
 The secret dew-drop on my cheek, whene'er  
 I turn unto the past? or will the change  
 That comes to all, renew the alter'd spirit  
 To other thoughts, making the strife or love  
 Of short mortality a shadow past,  
 Equal illusion? Father, whose strong mind  
 Was my support, whose kindness as the spring  
 Which never tarries! Mother, of all forms  
 That smiled upon my budding thoughts, most dear!  
 Brothers! and thou, mine only sister! gone  
 To the still grave, making the memory  
 Of all my earliest time, a thing wiped out,  
 Save from the glowing spot, which lives as fresh  
 In my heart's core, as when we last in joy  
 Were gather'd round the blithe paternal board!  
 Where are ye? must your kindred spirits sleep  
 For many a thousand years, till by the trump  
 Roused to new being? Will old affections then  
 Burn inwardly, or all our loves gone by  
 Seem but a speck upon the roll of Time,  
 Unworthy our regard? This is too hard  
 For mortals to unravel, nor has He  
 Vouchsafed a clue to man, who bade us trust  
 To him our weakness, and we shall wake up  
 After His likeness, and be satisfied.

From the mournful solemnity of this passage, how sweet is the transition to the opening lines of the Sixth Book, describing the approach of that spring which was to let loose the hordes of Attila from Pannonia upon the devoted empire of Rome!

‘ Sweet bird, that like an unseen spirit sing’st,  
 When the rude winds are hush’d, the beaming glades  
 Enrobed with tenderest verdure, and soft airs  
 Breathe fragrance, stolen from the violet rather!  
 Sweet angel of the year, that, ever hid  
 In loneliest umbrage, pour’st thy thrilling strain  
 By kindred warblings answer’d, till around  
 With inborn melody the covert burns



In all its deep recesses ! is thy song  
 The voice of the young spring, that wakes to life  
 This animated world of bright and fair !  
 Earth has no music like thy witching stores  
 Of liquid modulation.'

In stern contrast, however, with the sweet and soothing delightful associations of spring, are the sights and sounds witnessed in Sicambria, which echoes with the clang of arms, and the tramp of steeds, and glitters with the pomp of diverse banners. With what beauty and variety of expression is a familiar idea reproduced in the following simile, describing the descent of Attila's army upon the plains of Italy !—

' As when, winter-bound,  
 The slope of some vast mountain, parch'd and frore,  
 Hath slept long months in silence, save where howl'd  
 The snow-storm round its peaks, or the rent ice  
 Rang terrible through all its echoing glens ;  
 By vernal zephyrs loosed the turbid streams  
 Pour down its flank, and with one wasting flood  
 O'erwhelm the vales beneath : so, pent long while  
 By winter in his eyrie, now rush'd forth  
 The desolating vulture crowned with gold,  
 Attila's dread standard.'

There is more action and bustle in the Sixth Book than, perhaps, in any of the others ; for it embraces the progress and triumph of Attila from the commencement of the campaign to the fall of Aquileia ; in which, however, though it is the most important incident of the book, we miss that clearness of portraiture and distinctness of local description, which places the whole scene of the Leaguer before us, as in the ' Jerusalem Delivered ;'—as to which Chateaubriand, who had studied the original on the spot, observes, that so vivid and accurate is Tasso's plan of the siege, that we may even yet remark the tower where Aladdin is represented as sitting with Erminia, and retrace the paths by which Armida arrived, Erminia fled, and Clorinda advanced to the combat. The outline of Mr Herbert's siege is of a more faint and indistinct character, and, in fact, except for the fall of an old tower, which is represented as an outwork of importance, we have no very clear conception how Aquileia is taken after all. But the fall of this tower under the assault of the granite blocks, hurled from the Hunnish engines, is magnificent.

' Crumbling to its base,  
 The stately fabric from its airy brow  
 Drew ruin, with a crash, that shook far off

Tergeste's bay, and echoing wider smote  
 Mount Maurus, and the peaks of Alpine snow.  
 Uprose the dust from that great wreck to heaven,  
 And stillness, quiet as the voiceless grave,  
 Follow'd that fearful sound, as if the world  
 Had pass'd away therewith annihilate.  
 Slowly dispersing, the pulvereous cloud  
 Reveal'd destruction, and a piteous breach  
 Unveil'd rich palaces and marble domes  
 Unto the hungry spoliator's view.'

We pass over the description of the carnage and the horrors that follow.

' Day dawn'd, and Aquileia was no more.  
 No structure marks her site; no dwelling stands,  
 Where once she grew in beauty; ruthless war  
 Has swept her from the marge of those blue waves,  
 Which laughing heaved before her marble halls,  
 And wafted oft, by summer suns illumed,  
 Gladness, and song, and still unheeding youth,  
 Upon their sparkling foam. . . .  
 . . . The sad swain  
 Looks piteous o'er the vale, and asks where stood  
 Bright Aquileia in her pride of power?'

The Seventh Book may be said to be almost purely episodical. It is occupied with a visionary representation of the Italian campaign, shown by the Spirit of Evil to the Enchantress Hilda, once the wife and favourite of Attila, but fraudfully divorced to make room for a newer passion—Eskam, her daughter and his own. Her love converted into hatred, she invokes the powers of hell to aid her in avenging her wrongs upon the faithless and licentious Hun; and with that view summons the arch-fiend to unveil for her the secrets of futurity. Perhaps the most striking part of this vision,—which to our minds is too long drawn out, and too obvious an excrescence upon the plot,—is the opening describing the first glimmering of the mysterious pageant upon the surface of the caverned lake where the display takes place.

' The wondrous beam illumed  
 A lake more still than Lethe, in that cave  
 Far bosom'd underground; no living form  
 E'er stains its limpid surface, save where comes  
 Eyeless and dark unto its breathing place  
 The proteus serpentine, that makes abode  
 In the great deep below, of ocean's flood  
 The nether pool, where many a monster dwells,  
 Saurus or huge Leviathan, unknown  
 To the upper air. Astonish'd Hilda saw

Depicted on the mirror's watery lap  
 A vast and noble city ; but within  
 Nor motion, nor the shape of living thing  
 Disturb'd the stillness of its marble ways ;  
 Untenanted the fenced turrets rose  
 On a deserted plain ; and all around  
 A voiceless desolation seem'd to rule,  
 Tranquil as death : the works of man were there,  
 His pompous dwellings, and the haunts of life,  
 But not his form ; the verdant meadow lay  
 Still than Eden's yet untrodden herbs,  
 Nor cloven foot, nor undivided hoof  
 Press'd their soft carpet ; but anon the dust  
 Rose like a cloud on the horizon ; steel  
 Gleam'd faintly, and an army's ample might,  
 As if in truth reflected on the lake,  
 Seem'd growing into motion. " There behold,"  
 Satan pursued, " the shadows cast before  
 " By wizard Time." Beauteous it was and bright  
 To view the varied pageant, which advanced  
 On the blue water, as if thousand arms  
 Were glimmering to the sun, and crested helms,  
 And banners multiform with symbols strange,  
 The ornament of battle. As when, borne  
 O'er Artic billows to the gelid land  
 Far westward, the mazed mariner descries  
 At morn reflected on the azure wave,  
 Mast, hull, and crew, with all her canvass spread  
 The spectre of some ship, which far aloof  
 Speeds towards the pole. So gleam'd Concordia's domes  
 Invaded by the Hun.'

The vision of the campaign passes by ; the scene changes to a rich tent of Bactrian fashion ; and Hilda sees a beautiful maiden in Eastern attire, at whose feet a kneeling youth appears to press his suit of love ; while at the threshold stands the scowling form of Attila, his eyes lighted up by the fires of jealousy. In reply to her anxious question, What are these forms ? Portending what ? To whom ? The demon answers,

' Thou hast view'd the shape  
 Of fair Mycoltha, Bactria's royal nymph,  
 Beloved of Attila, if lust be love.'

The Eighth Book is entirely occupied with the treacherous inactivity of the Roman general Ætius, who resolves to allow the host of the Huns to ravage Italy without impediment ; to counsel Valentinian to flight, and then to seize the moment of his disappearance to have himself proclaimed emperor ;—trusting that he shall afterwards succeed, either by force or fraud, in removing

his Scythian competitor for empire. It contains little that is remarkable, and is to us the least interesting in the poem. The truth, however, and happiness of expression in the following lines, which describe the gradual and benumbing progress of vice in a naturally great mind, induces us to extract the simile.

‘Heart-consuming Vice,  
How dost thou from the soul its nutriment  
Steal unperceived; and, when Time throws aside  
Thy specious mantle, leaves its sapless age  
Denuded of respect! As where in brakes,  
That lie deep-cradled by Æmodian hills,  
The dodder, like a baneful serpent, throws  
Its coil upon some shrub or vigorous herb,  
The lonely glen’s best ornament; entwined  
Around each limb the parasitic wreath  
Diffuses fragrance, and encircles it  
With glory not its own; while, from each pore  
Stealing the healthy sap, creeps slowly on  
The sweet contagion, and behind it spreads  
Pithless decay.’

Mean-while, Valentinian, lost in sensual indulgence in Rome, seems heedless of the progress of the enemy. Not so, however, the citizens. Alarmed by the wild rumours of the rapid advance of the Huns, they flock in crowds towards the Capitol, breathing blasphemies against Christianity, and calling for the restoration of their former evil sacrifices. The venerable Leo confronts them on the threshold; voices are not wanting in that savage crowd to call for the sacrifice of the pontiff himself—but he, nothing daunted by their rage and clamour, commands silence, and informs them that, weak and unarmed as he is, he is prepared to go forth, confident in Heaven’s aid, to meet the Hun, and endeavour to mitigate his rage. Awed by his enthusiastic and strong faith, the fickle crowd,

‘That came to curse, with alter’d heart and voice  
Shouted Jehovah! Him in battle strong,  
The King of glory, and the Lord of hosts!  
While they, who to forbidden orgies clung,  
Withdrew abash’d or murmuring; for the word  
Was mighty, and in loud symphonious chant  
Messiah’s name was wafted to the skies.’

After an interview with Honoria, who now, under the effect of suffering, has become sincerely penitent, the venerable pontiff sets out upon his perilous mission. The attempt of the ambassadors of Rome, Avicinus and Trigesius, to induce the barbarian leader to spare the capital of the world, has proved fruitless. Attila drives them from his presence:—

‘ Fly with wing’d speed to Rome,  
 Lest haply I outstrip thy laggard march,  
 And thou, first offering, bedew the sword  
 With thy life’s blood. Bid the vain Caesar joy  
 Three nights of ease, three days of feasting, ere  
 His gore asperse the pyre, and his lopt arm  
 Be cast unto the winds.’

Trigetius makes a bold and indignant reply :—

‘ At those high words  
 Flush’d with indignant heat, the vengeful king  
 Strode forwards, and e’en then unbridled rage  
 Had cut all parley short, and bade the trump  
 Out-breathe defiance, never blown in vain,  
 The warning sure of blood ; but stately stept  
 Before him Leo ; his resplendent brow  
 Beam’d with no earthly majesty, as, clad  
 In his pontifical robe, with palm outspread,  
 He stood opposed to the destroyer’s wrath :  
 And thus,—“ Stay, impious !” he exclaimed, “ the blood  
 Spilt by thy fury reeks e’en now to heaven,  
 And judgment is upon thee. Against whom  
 Hast thou thyself exalted ? whom reproach’d,  
 Blaspheming the Most High ? Therefore His arm  
 Who smote with loathsome death the impious king  
 In vain self-magnified ; His arm who sent  
 Upon Sennacherib the fatal curse  
 Angelic, pour’d at midnight on his host,  
 And scared him from his lofty vaunt, to fall  
 By parricidal treason in the house  
 Of his foul god ; His arm who to the dust  
 Bow’d the triumphant Goth,\* and in few months  
 Wiped out the boast of victory, and laid  
 Him in that lowly house, where great and small  
 Lie mingled ; thee to thine opprobrious home  
 Shall turn from hence confounded, and bring low  
 The throne, which thou hast ’stablished by sin.”

‘ The pontiff ceased ; awestruck the monarch paused,  
 And held his speech ; for round the man of God,  
 Who spoke, unconscious of the majesty  
 Wherewith Heaven clothed his brow, celestial light  
 Stream’d downward, and upon his right and left  
 Two forms, to Attila alone reveal’d,  
 With venerable port and hoary brows,  
 Larger than living, and more glorious, stood.  
 There was no voice, but close before the king

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\* Alaric.

Martyr'd Barjona\* seem'd with splendour robed,  
 And he of Tarsus,† his vindictive arm  
 Extending ; as when whilome he rebuked  
 The sorcerer in Paphos, and dried up  
 His fount of light, he turn'd his stern aspect  
 To that unhallow'd army, which stood nigh  
 Confiding, and with proud impatience chafed.  
 The king shrank back appall'd. A sound ensued  
 As of an earthquake, when the mutinous winds,  
 Imprison'd under ground, through some vast rent  
 Strive viewless, shaking its distempered frame ;  
 The sullen murmur of ten thousand fiends  
 Roused from their lair. As on Sarmatia's plain,  
 Or where Viadrus through the level glebe  
 Rolls fruitfulness, if some belated swain  
 At dead of night invades the winged herd  
 Of Hyperborean fowls, that crop unseen  
 The verdant blade, upon his startled car  
 Stupendous rises the confusive rush  
 Of thousand mingling pinions, which at once,  
 As gender'd from the womb of darkness, smite  
 The pathless ways of air ; so rose the sound  
 Of countless fiends departing, that aloof  
 Followed the Archfiend, as some nocturnal haze  
 Drawn hill-ward by the Sun ; the rustling flight  
 Of Powers and dark Dominions, that forsook  
 Him smitten in his pride by holy fear,  
 And fallen.'

Pestilence assails his camp—half his army is destroyed—and the stern Hun is compelled to bid the Roman envoys depart, conceding that peace for which they had sued in vain in the outset, and to turn his steps again towards Pannonia. The following lines, which describe the disappearance of Attila's demon-steed, Grana, during the retreat, have much grandeur and solemnity of expression. A woman of terrific stature confronts the king, and warns him back :—

‘ From earth  
 Sprang Grana, and, as wont, whenever brayed  
 The trumpet's clang for battle, or the call  
 Of huntsman sounded in Pannonian wilds,  
 Toss'd high his mane, and neigh'd, and snorting flung  
 His heels aloft ; then, bounding, made escape  
 With that ill-ominous phantom to the depths  
 Of lemure-haunted Hartz ; and with him went

The fortunes of him fear'd above mankind.  
 Fame saith, in that dark forest he abides,  
 Unbitted, riderless, seen dimly oft  
 By some affrighted hind, with headlong course  
 Speeding o'er all obstruction, while resounds  
 The nightly horn, with voices, not of men,  
 Borne faintly on the breeze, and o'er the waste  
 Pale flickering lights are seen, and evil fires.'

The Eleventh Book resumes the story of Mycoltha, the Bactrian princess, who had long been betrothed to Andages, but whom Attila now resolves to force into a union with himself. No hope remains for the lovers but in flight to the Christian. They attempt an escape from the mountain recesses of Attila's camp, which are fenced by mysterious mechanical contrivances for preventing the exit of their inhabitants :—

'The tints of ruddy gold,  
 Which glow'd upon the firmament, had long  
 Bewray'd night's secrets, and the unclouded sun  
 Climbing the vault of heaven rode gloriously,  
 Ere the eighth brazen door was left behind.  
 Fear gave them wings, and tremulous hope their flight  
 Urged onwards. Listening still with dread intense,  
 They start at every sound, and fancy oft  
 On the unbroken stillness of the air  
 The fatal larum brings. At length there came  
 A rumour with the breeze ; first indistinct,  
 It grew upon the ear, till plain and loud  
 The inflated trumpet's voice articulate  
 Gave warning. Over every glade remote,  
 North, South, and East, and West, with one accord  
 The simultaneous blast flew diverse, sent  
 From hamlet unto hamlet, till it reached  
 The huge circumference, where far aloof  
 At one same instant, on the outer belt,  
 Each warder hears the interdicted names  
 Blown by sonorous metal, and what hope  
 To 'scape or lie unseen, where each lone vale  
 And thicket hath a tongue. Aghast they stand,  
 As he, who in some glen, where raging flows  
 The rock-imbedded river, swelled by streams  
 From every wooded gill, whose steep indents  
 The mountain sloping from its heathy waste,  
 Hears the stupendous thunder, which rebounds  
 From knoll to knoll, unto the fountain's head,  
 Reverberated with appalling din  
 Successive and unceasing.'

There is now no doubt that their pursuers are at hand, and all escape from the grasp of Attila hopeless. The lovers await their fate in each other's arms.

‘ One first last kiss

His lips have fixed upon her lips ; his eyes  
Have look'd through hers into her inmost soul,  
And in that transport have their spirits met,  
Pure, sanctified, and not by human force  
To be disjoin'd, or by that fated hour  
Which comes to all. There is a blessedness  
In utter desperation, and the throb  
Of grief's acutest agony, which makes  
The heart with such intense devotion glow  
As borders upon joy. Twin hearts of love,  
By power unrighteous sunder'd, become one  
With a more absolute union, and cohere  
So much in spirit more.’

Andages is led back to prison, and to death on the next morning's dawn, while immediate orders are issued for the celebration of Attila's nuptials with Mycoltha. Passing over the horrible attempt of Hilda to destroy Attila, after sacrificing two of his children, we can afford room only for one other passage. It describes the catastrophe of the poem, and the sudden and mysterious death of Attila, which leads to the breaking up of the Antichristian confederacy.

The banquet has been unusually splendid, but it fails to chase away the feeling of gloom with which the mind of the Hun finds itself assailed.

‘ The night was mirky, and unwholesome mist  
Hung o'er the grove and high place, to the Accurst  
Rear'd nigh the palace. The carouse was hush'd,  
And to his bridal bower the monarch stepp'd  
Secure of ill ; from his voluptuous couch  
Never to issue in the pride of life,  
Nor gird the sword, nor fulmine more the law  
That wars against the spirit. Within, more pale  
Than her clear virgin robe, with mournful eyes  
Set on a crucifix of silver, knelt  
Mycoltha. In despair her heart was turn'd  
Unto her God, and purified by grief  
Was wholly with its Maker. A still voice  
Whisper'd beneath her bosom, that to Him  
All things are possible, and mortal strength  
But chaff before His breath. She rose as calm  
To meet him, as if maiden pudency  
Had nought to dread. A secret strength, breathed forth  
As from the Highest, who is ever nigh  
Those that with faithfulness and truth approach



His throne in prayer, upheld her : and she stood  
 So beautiful, so tranquil, that she seem'd  
 A thing too sanctified for mortal love.  
 But not to Attila forbearance mild  
 Or stay of passion came. By beauty's sight  
 And that abominable meal inflamed  
 His throbbing pulse beat high ; fierce rapture lit  
 His ardent gaze, and as of right he laid  
 Unholy touch upon her loveliness.  
 " Forbear, great king," the virgin spoke, with port-  
 Majestic (and therewith her feeble hand  
 Upon the dire teraphim, that adorn'd  
 His kingly breast, with ruddy gold enchased),  
 She placed repulsive.—" There is One above,  
 Can make the worm, whereon oppression treads,  
 A stumbling block to giants. Whether He wills,  
 For some wise end, that these weak limbs, which are  
 The temple of His Spirit, be made vile  
 By thy polluting force or not, I know  
 That my Redeemer liveth, and His arm,  
 Which shall upraise me incorruptible  
 And pure before my God, by the frail hand  
 Of woman from the majesty of rule  
 Can hurl thee, if He will. O thou, great Lord,  
 Who, as the Hebrews tell, adjured didst give  
 The Danite blind Thy might, to overthrow  
 The Philistines and all their sculptured gods,  
 Arm me with strength !"

' This said, her young frame, nerved  
 By ecstasy of heaven-descended hope,  
 She flung the strong one from her, as the reed  
 Stoops to the wind. O God ! Thine arm was there !  
 The mighty one of earth, who in thine house  
 Boasted to plant the abomination, lay  
 Upon his couch a corse, from nose, mouth, ears,  
 Ejecting blood ; the gurgling fountain choked  
 All utterance. Stretch'd in stillest ghastliness  
 There the world's dread, the terrible, the scourge  
 Of nations, the blasphemer, is become  
 As nothing before thy consuming wrath ;  
 His kingdom is departed.'

No one, we think, who has perused the liberal extracts which  
 we have made from this work, can doubt that '*Attila*' is a work  
 conceived in a grand and simple spirit, and abounding in passages  
 finely imagined and finely expressed. Few poems which have  
 appeared within the last twenty years evince a more thorough  
 preparation on the part of the writer,—a deeper study of the sub-  
 ject,—or a more just and masculine taste. But to what rank is it

entitled as an epic? Considered in this point of view, we must candidly admit that it seems to us to labour under several serious defects.

In the first place, granting that 'the grandeur of the subject' is undeniable, we cannot persuade ourselves that it affords any very available materials for poetry. Every attempt to treat it dramatically or in the form of narrative fiction has hitherto been a failure. The '*Attila*' of Werner is ridiculous; that of Mr James is the least successful of his fictions. We cannot see that its epic capabilities are much greater. The whole period to which it relates is so dark and undefined in its outlines,—we find it so difficult to form any idea of those savage tribes from which the leading actors of the scene must be selected, or to take any interest in their fortunes,—that we cannot but wonder at first how Mr Herbert should have been so strongly drawn towards a theme which, to most readers, would appear in attractive; and can only suppose that his descent from his warlike progenitors (for he informs us in a note, that the Herbert family trace their pedigree up to Alberon and the days of Attila), and his course of previous study must have invested it with a somewhat delusive interest in his eyes. The poem embraces the whole period from the battle of Chalons to the death of Attila (450 to 453), an interval of about four years; and, consequently, the task of preserving unity of interest, and exhibiting an obvious progression towards the catastrophe, is very much, and we think needlessly increased. Had the poem commenced with the advance upon Aquileia, Mr Herbert might still have interwoven with his action all his episo-dical ornaments—such as the description of the Pagan sacrifices, Satan's survey of the state of Europe, the temptation of Honoria and Leo—while, at the same time, the poem would have appeared to gain in rapidity of movement, by the omission of periods during which the action makes no visible advance. The accidental death of Attila too, by the bursting of a blood-vessel, forms no proper epic conclusion in itself; and though Mr Herbert tries to take away from the incident its chance character, and to impart to it the more solemn air of a judgment from heaven, executed by a weak mortal hand, we cannot say that he has succeeded in rendering the incident a sufficiently impressive catastrophe for an epic poem.

In the next place,—and this, we think, is also in some measure owing to the remote and obscure period in which the scene of the poem is laid,—there is a vagueness and want of firm characteristic delineation about the characters. Attila alone is drawn with any force, but even he without much novelty of conception. His pride in his own divine, or infernal commission,—his hatred of

the Romans, and 'lust hard by hate,' the common historical features of his character,—come out, no doubt, palpably enough; but we should have looked for some attempt to make us more distinctly understand and sympathize with *the man*. The other characters, we are constrained to say, are little more than sketches. None of them are dwelt upon with sufficient detail to enable us to think of them as actual existences. They come like shadows and depart; and, with the exception of the venerable Leo, to whom a more important part in the action is assigned, can scarcely be said to influence the action of the poem in the least degree. Mycoltha, in particular (who, if the poem has a heroine, is probably entitled to that character, since it is by her hand that the enemy of Christianity falls), is never brought forward, with the exception of the allusion to her in the Third Book, after the sacrifice of the Christians, till her attempt to escape from the mountain-fastnesses of Attila in company with her lover, in the Tenth; and this incident, coupled with the nuptial tragedy in the Twelfth, are the only adventures in which the Bactrian Princess is concerned. We regret that more prominence was not given to this character, and would willingly have parted with Hilda and all that pertains to her, to have made way for its more detailed developement.

Looking to the poem as a whole, we must say also, that the descriptions bear an undue proportion to the action. This is, indeed, one of the besetting sins of modern poetry; and Mr Herbert has not been able to resist the temptation. More than once the descriptions are so detailed—as in Satan's Vision of Europe, the Story of Cyprian, the Pageant of the Italian Campaign—that the reader almost forgets the state of the story, and the precise bearing of these collateral matters upon the main action. The picture of the field of Chalons, after the battle, occupies nearly one hundred and fifty lines; nay, even the sword of Attila has a page of description and allusion devoted to it. We quote the passage both as illustrative of this tendency to prolixity, and as a striking example of that over-imitation of Milton which pervades the poem, and which must have been already, in some degree, obvious from the extracts we have made. Milton is a noble model, no doubt, and perhaps the safest which an English epic poet could prescribe to himself; but there is a difference between admiration and adoration; and Mr Herbert has not unfrequently imitated Milton in points where that great poet has been least successful. We readily grant that Milton has a high power of rendering his learning picturesque, and of using mere names in such a manner as to call up classical associations or romantic

pictures. But even in Milton, we doubt whether any critic, who candidly owns the truth, would not be disposed to admit that the poet sometimes abuses his privilege, and prolongs these passages of learned allusion, to the detriment of the general effect of his poem. Will it not be owned that Mr Herbert has fallen into a similar mistake in the passage we are about to quote?

‘ That steel upraised

Myriads adore, to Britons known erewhile,  
What time the phantom monarch\* they revered,  
Son of Pendragon hight, whose wizard life  
Was wedded to Excalibar, that thrice  
Waved its strange summons on the flood, and he  
Evanish'd; but still viewless oft at night,  
Like that terrific hunter, who first wore  
The charmed sword in Nineveh, with horns  
Rousing each savage from his lair, he sweeps  
The darksome covert, and shakes Albion's cots  
With midnight awe; and still, midst Ætna's wilds  
Precipitous, where blasted Typhon writhes  
Stretch'd under huge Pelorus, secret rise  
Her fairy halls, embower'd in changeless spring;  
Where, scaped from Modred's strife, he yearly mourns  
‘The recrudescent wound.’

This, be it observed, is but half the description, which extends through nineteen lines more of allusions to classic and romantic traditions; and, indeed, it is not possible to take up a single book of the poem without being reminded, frequently, we admit, of Milton's best points,—his sublimity and his purity,—but frequently also of his least agreeable peculiarities. We are satisfied that in Mr Herbert's case the systematic imitation of Milton, both in expression, and in the strain of allusion, has been seriously injurious to the originality, and may be seriously prejudicial to the success of his poem.

While we say this, let us at the same time bear testimony to the remarkable success with which, in many of his similes, he has caught the happiest manner of Milton, without any servile adoption of his language. The following examples are selected at random:—

‘ As he, who sails aloof  
Upon the perilous Atlantic, vex'd  
By baffling gales, what time his gallant bark  
Or on the summit of some dark blue wave  
Storm-beaten rides, or plunges into the chasm

\* King Arthur.

From that tremendous altitude, and straight  
 Lies in the trough becalm'd, as if the grave  
 Had swallow'd her; nathless undaunted sets  
 His fixt regard upon the starry vault,  
 And notes the hour, and frequent calculates  
 Distance and bearings, and with skill corrects  
 The errors of his course. So darkling steer'd  
 Aëtius through the shoals and fearful blasts  
 Of his tempestuous time.'

The effect of sudden surprise on Alberon, when he hears the voice of his ravished bride, is thus expressed :—

' As when in act to spring  
 The serpent, charm'd by spells of potent sound,  
 Stands riveted; its fearful crest erect  
 Sinks slowly, and the coiled folds relax;  
 So sudden stood in mad career of rage  
 Astonied Alberon.'

The following passage describes the terrors of the Aquileian soldiers, who had ventured during the night-attack to assail Attila in a subterraneous sewer, through which he is endeavouring to force a way into the town :—

' As he who journeying at dead of night  
 Through dark Hercynia's wood,\* when popular dread  
 Fills every glen with strange unholy shapes,  
 Or seen, or fancied, at the perilous hour  
 When such have might, oft looks behind, and oft  
 Turns nothing less affrighted to his course,  
 Till full before him glares the dreaded form  
 Too horrible for mortal vision; thus  
 Awe-stricken they into that miry stream  
 Returned precipitate, and stole by flight  
 A few more miserable hours of life.'

We now take leave of Mr Herbert, having candidly stated certain defects which we think calculated in some degree to interfere with the popularity of his poem, but with the highest respect for the talent it displays, and the pure and masculine taste which it indicates; and with the sincere hope that in the appeal which he has here made to the lovers of elevating and intellectual poesy, in a noble and classic form, he may not find himself disappointed.

\* The Black Forest.

- ART. II.—1. *A few Historical Remarks upon the supposed Antiquity of Church Rates, and on the Threefold Division of Tithes.* By a Lay Member of the Church of England. 12mo : 1837.
2. *The Antiquity of the Church Rate System considered, in Reply to a Pamphlet entitled 'A few Historical Remarks,' &c.* By the Rev. WILLIAM HALE HALE. 8vo : 1837.
3. *Letter to Lord Stanley on the Law of Church Rates.* By Sir JOHN CAMPBELL. 8vo : 1837.
4. *Observations on the Attorney-General's Letter to Lord Stanley.* By JOHN NICHOLL, LL.D. 8vo : 1837.
5. *The Origin of Church Rates.* By the Hon. and Rev. A. P. PERCEVAL. 8vo : 1837.

IT may be mortifying to the dignity of the clergy, and fatal to their pretension of an inherent Divine Right in the possessions they enjoy, but it cannot be denied, that for ages they were maintained by the voluntary contributions of the laity. In the infancy of the Church it could not have been otherwise, unless a miracle had been wrought in their favour. The Apostles and their immediate successors had no funds of their own to supply their wants and defray the expense of religious worship; and deriving no pecuniary profit from their spiritual services, they had no resource for subsistence but in the liberality of the faithful. Such, however, was the fervour of the early converts to Christianity, that they not only contributed their goods for the benefit of the Church, but sold their possessions and laid the price at the feet of their spiritual instructors. Funds thus amply provided and freely bestowed, after supplying the necessary wants of the Church, were distributed among the more indigent of her members in acts of charity and beneficence. Alms were given to the poor and destitute, succours administered to the aged and infirm, and relief afforded to widows and orphans who were in want. Captives, who had been reduced to slavery, were redeemed; exiles and convicts, doomed to the mines or other servile works on account of their religion, had their sufferings mitigated; and the miseries inflicted by war, pestilence, or famine, were alleviated by the bounty of the Church. Among the secondary causes that promoted the diffusion and success of the gospel, none were more efficacious than these continual and ex-

tensive acts of beneficence; and it was the boast of the Christian apologists that means for them were furnished, not from the bitter fruits of taxation, but by the spontaneous collections and voluntary offerings of the faithful.

Such was the ardent zeal, and so munificent the liberality of the early Christians, that even in the second century we hear of many churches contributing largely to the relief of their indigent brethren in distant and remote provinces; and in the third century, if not earlier, donations of land had placed the churches of Rome, and of the other great cities of the empire, above a precarious and uncertain dependence on the monthly or weekly oblations of the pious. It is unnecessary to add, the relaxation of morals and discipline, the contentions for power, and other disorders inseparable from wealth, followed in its train; and though other pretexts might be used, it is no improbable conjecture of a great ecclesiastical historian, that it was to her riches and to the rapacity of the Pagan emperors, rather than to her doctrines, that the Church owed many of the persecutions she underwent.

It was still on the Voluntary principle, as it is called, that the Church depended for her support. The donations of land to particular churches or communities were invalid in law, and could only be enjoyed by the connivance or tacit permission of the magistrate. Accordingly, when Diocletian and Galerius made their last vain effort to extinguish the Christian faith, the first measure they adopted was to seize on the temples and confiscate the lands of the Church; alleging, in their justification, the ancient laws of the empire, which permitted no donation or bequest of land to communities not authorized by the state.

On the accession of Constantine to power, the edicts of Diocletian were repealed, the confiscated possessions restored, new and ample donations added, and regular allowances made by the government to assist in defraying the expenses of worship, and continuing the customary charities of the Church. Permission was at the same time given to all the churches of the empire to receive gifts or bequests in land or money from the faithful. For the first time since the introduction of Christianity, the Church became legally independent of the voluntary support of her votaries. The possessions thus acquired, though in their origin the free offerings of the faithful, when once bestowed, became the irrevocable property of the churches to which they were given, and could not be resumed by the donor or his heirs, nor confiscated by any authority short of the supreme legislature of the state, which had conferred on these churches a legal existence and corporate capacity.

The opportunity thus afforded of enriching their churches was not lost or neglected by the clergy. So rapid were their acquisitions, so indefatigable their exertions, and so unscrupulous the means they employed, that in less than fifty years after the edict of Constantine, it was found necessary, by a most pious and orthodox emperor, to impose legal restraints on their cupidity. An edict of Valentinian forbade them to haunt the houses of widows and orphans, or to receive gifts or bequests from their female penitents and devotees, whose infirmities, weaknesses, and fears at the approach of death, they had abused and perverted to their own advantage. The nickname of *Legacy-hunters*, which they had earned by their assiduities at the bedsides of the dying and infirm, justified the stigma and severity of this enactment. 'I complain not of the law' exclaimed St Jerome, 'but I lament that we deserved it.'

In the primitive ages of Christianity, no bishop or presbyter pretended to be proprietor of the lands or chattels bestowed on the Church. The property was in the community of the faithful, and its destination was for pious uses. The bishops were merely the stewards and superintendents, and the deacons the managers and distributors of the revenues of their several churches. No specific rules or restraints were imposed on these officers, because no such rules or restraints were thought necessary. If the income of any church was misapplied, it was in the power of the congregation to withhold their contributions, or to direct them into a worthier channel. Not that this check was always sufficient: As early as the third century we hear of bishops applying to the gratification of their personal vanity or private indulgence the funds that had been placed at their disposal for the relief of the indigent. When churches acquired independent endowments, these irregularities must have become more frequent, and before the end of the fifth century we find the famous quadripartite division established at Rome. By this disposition, the whole income of every church, whether arising from rents, oblations, alms, or other voluntary contributions, was divided into four parts,—one for the bishop, one for the servants of the altar, one for the repair and decoration of the church, and one for the neighbouring poor dwelling in the adjacent district. It is probable, as Paul Sarpi has conjectured,\* that these divisions were not arithmetically equal, but variable according to times and circumstances. When the Church was rich, and the clergy were few in number, less than a fourth was probably assigned to

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\* Sarpi delle materie beneficarie, § 7.



them ; the portion allotted to their use being nothing more than what was strictly necessary for their decent subsistence. Where the Church required little or no reparation, and possessed a sufficient assortment of vestments, vessels, and other utensils for religious worship, less was set apart for these purposes. Where the poor were numerous and necessitous, their share was proportionally augmented. The bishop had the superintendence of the whole ; and whatever surplus remained of his income, after discharging the duties of hospitality to wayfarers and strangers, he bestowed in charity. But in whatever proportions the revenue of the Church was distributed, there was every year a division made of it into four parts, and the principle thereby maintained that its riches were not the sole property of the clergy ; that for the greater part of its income they were trustees and not proprietors ; that it was not merely as a moral duty that they were bound to bestow a portion of its wealth on the indigent, but that all it possessed, after defraying the necessary subsistence of its ministers, and providing for public worship, belonged to the poor. So deeply-rooted were these notions, that long after they were departed from in practice, it was a question among the schoolmen whether the alms of the clergy partook of the nature of charity, or were not rather to be considered as the discharge and payment of a lawful debt. Nor was this language confined to the schools. It is to be found in the Acts of Councils, and Edicts of Popes and Princes. Charlemagne designates the possessions of the Church as the patrimony of the poor ; and the same appellation is given to them in the reign of his grandson, by Archbishop Hincmar, and in the twelfth century by Pope Calixtus. By English metropolitans, and in English councils, tithes are repeatedly termed *tributa egentium animarum* ; and so late as the time of the Reformation, it appears from the injunctions of Henry VIII., Edward VI., and Elizabeth, that ‘ the goods of the Church were still called the goods of the poor,’ though little or none of them, it is confessed, ever reached the hands of their nominal proprietors.

That the quadripartite division of the rents, oblations, tithes, and other emoluments of the Church remained in force at the commencement of the seventh century, appears from the celebrated letter of Pope Gregory to Austin, the Romish missionary, who first introduced Christianity among the Saxons. This letter is frequently referred to in the pamphlets before us, and we are sorry to perceive that it has given occasion to many angry and acrimonious observations. We shall not follow the example set to us, but content ourselves with a plain and simple exposition of its contents, so far as they relate to the present subject. Aus-

tin is in the first place told, that whenever a bishop is ordained by the Apostolic See, he is directed to divide the income of his bishoprick into four parts,—one for himself, one for his clergy, one for the poor, and one for the reparation of churches. He is then reminded, that being a monk he can have no provision apart from his clergy. If any of his clerks, who are not in holy orders, have wives, he is desired to assign them pensions according to their wants; but for those who live in common, there are to be no separate portions. *All that remains, after providing for these necessary purposes, is to be dedicated to pious and religious uses.\** The general rule of a quadripartite division is laid down by the head of the Western Church. The exception in the case of Austin and his followers is not to relax the rule, but to make it stricter than usual. The whole income of the infant church is to be devoted to pious and religious uses, after providing for the expense of worship, and the necessary subsistence of the clergy.

The destruction of the Western Empire, which speedily followed the establishment of Christianity, brought much good and evil to the Church. The rapacious and insolent barbarian, in the first exultation of victory, plundered the temples and despoiled the clergy of their wealth; but when converted to the religion of the vanquished, he became profuse in his gifts and offerings to the servants of the altar; and when assailed by the terrors of dissolution, he sought, by his bequests to the Church, to atone for the immorality, violence, and cruelty of his past life. It was not, however, to the pious devotee and penitent sinner alone that the Church was indebted for her riches. The timid and helpless, the selfish and luxurious, contributed their share. To secure her protection, and add at the same time to their means of enjoyment, many were tempted to sell their estates to the Church, receiving a life annuity in return, which was sometimes twice or thrice as great as their former income.† By such arts the Church rose with rapidity to affluence. In France, long before the close of the Merovingian dynasty, one of their kings was heard to exclaim,—‘The state is reduced to beggary; its riches have passed to the Church; the clergy alone have wealth; the splendour of the Crown has vanished, and gone to decorate the mitre of the bishop.’ Exorbitant wealth, without military power to make it respected, led naturally, in a rude and barbarous age, to spoliation. Charles Martel having saved Christendom from the irruption of the Saracens, recompensed his soldiers with the lands of

\* *Omne quod superest in causis piis et religiosis erogandum est.*

† Sarpi, § 19.

the Church. His successors, needing the sanction of religion to palliate their usurpation of the throne, requited the clergy with the imposition of tithes.\*

From a very early age the payment of tithes had been inculcated as a moral duty by the clergy; and from the example of the Mosaic dispensation, it had been urged as an obligation incumbent on every Christian. By St Augustin, the most Protestant of the fathers, it was recommended as a substitute for lands and other worldly possessions, which, in his opinion, diverted the minds of the clergy from their proper calling. In a council held at Macon in 585, they who failed to pay tithes to the Church were threatened with excommunication. Stories were told of Divine vengeance falling on the unbelieving and uncharitable who withheld this pious contribution. Stimulated by avarice, pinched and impoverished by the rapacity of their bishops,† the clergy in their sermons inculcated no other duty but tithe-paying, and seemed to place the whole of Christian perfection in that single virtue; but notwithstanding these efforts, the voluntary payment of tithes was so precarious and uncertain, that about the middle of the eighth century it was found necessary to enforce it by law. To Charlemagne the clergy are indebted for that innovation; but in imposing this burden on his subjects, he was careful to revive and apply to tithe the ancient quadripartite division of ecclesiastical income. The tithe, when collected, was divided into three or into four portions, as the bishop had or had not a share in it. Where ample provision was otherwise made for the bishop, the division was threefold,—one part for the repair of the Church, one part for the poor, and one part for the servants of the altar.

Tithes were not limited to the tenth of the annual increase from land and domestic animals, no deduction being made for the

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\* On lands which had been taken from the Church a double tithe was imposed by the Carlovingians; first, an ecclesiastical tithe; secondly, a ninth of what remained, as a compensation to the clergy for the deprivation of their lands, which were left in the possession of the intruders, nominally as a *precaria* or lease, renewable every five years, but in reality as a permanent property. Lands which had not belonged to the clergy paid only one-tenth.

† — i sermoni che erano fatti nella chiesa, lasciate le materie della fede, non versavano in altro, che in prove ed esortazioni a pagare le decime; cosa ch'erano sforzati i curati a fare, e pel bisogno e per l'utilità; e nell' amplificare oratoriamente, come occorre, spesso passavano tanto inanzi, che pareva mettersero tutta la perfezione Cristiana nel pagare le decime.—SARPI, § II.

expenses of cultivation or nurture, but were extended to the profits of merchandise, to the spoils of war, to the produce of fishing and hunting, and even to the alms of the beggar and to the earnings of the prostitute. To silence the murmurs of the laity, it was given out that they were to be received as a substitute for all other ecclesiastical dues; but where other payments had continued to be made, the Ordinary was directed by Pope Innocent III. to maintain such pious and laudable customs against all who attempted malignantly to gainsay and resist them.\*

In England, the payment of tithes appears to have been partially introduced in the eighth century, if not earlier, and to have been strongly recommended by ecclesiastical authority, but not to have been enforced by penalties till the beginning of the tenth century. The first penal statute for the compulsory payment of tithes is to be found in the laws ascribed to Edward the Elder, and to Guthrum, King of the East Anglian Danes; and the first ordinance on the Continent, which imposes on all persons, by secular authority, the burden of tithes, is contained in the capitulary of Charlemagne, *de partibus Saxonie*. A newly-converted people like the Danes, and the recently subdued Saxons, required, it seems, more stringent provisions in support of the Church than nations educated from infancy in reverence for her doctrines and respect for her ministers. So great was the repugnance of these neophytes to the payment of tithes, that Alcuin, more intent on the progress of religion than solicitous for the interests of his order, urged Charlemagne to desist from the imposition altogether. 'Melius est,' says this unclerical member of his profession, 'decimationem amittere quam fidem perdere.'†

The division of tithes in England was tripartite. On that point we coincide entirely with the opinion so ably and satisfactorily maintained by the author of the 'Historical Remarks.' Whatever advantage his antagonist may have over him in some subordinate questions of ecclesiastical polity, in his main argument, he appears to us to be completely in the right. It is not without hesitation that we enter on this controverted ground—not from apprehension of the arguments that may be urged against us, but from disgust at the violent, virulent, and acrimonious tone that has been lately adopted on all subjects affecting the Church. Temper and moderation are virtues inculcated by Churchmen, but where the supposed rights and interests of their order are concerned, it is inconceivable to what extent they can divest themselves of these qualities. It is an observation of Dr

\* Sarpi, § 28.

† Selden's Works, iii. 115.

William Hunter, that in controversy anatomists are the most irritable of mortals; and he suggests as a reason for this peculiarity, that the common subjects of their contemplation are passive and unresisting. It is, perhaps, for a similar reason, that Churchmen are impatient of opposition. Unaccustomed, in ordinary cases, to reply, and having, therefore, like Goldsmith when he argued with himself, always the best of the argument, they are apt to consider every contradiction to their opinions as a rebellion against truth and reason. With the utmost respect for their character and station, we must protest against their assumption, that every one who differs from them must be deficient in knowledge or candour, and may therefore be lawfully assailed with weapons which in no other literary discussion are allowable.

We have great pleasure in excepting from this general censure one Churchman who has taken part in the present controversy. We differ from Mr Perceval in his animadversions on the late Ministerial plan for the abolition of Church Rates; and if we were disposed to enter on some other topics, we think we could point out to him several fallacies in the concluding part of his pamphlet. When tithes ceased to be voluntary oblations, and were enjoined by legal penalties, they became, to all intents and purposes, a tax or tribute imposed by the State; and so long as any Church accepts a stipend from the civil Government, it has no pretension to the privileges of an independent community, or can be permitted to act as such. Nor can we admit that the property of individuals stands on the same footing, as respects its applicability to national purposes, with the property of corporations, which owe their existence to the State, and may be altered or modified according to its discretion. But, in justice to Mr Perceval, we must say, that so far as he has noticed the ancient laws on Church Rates, he has cited them with fairness and without cavil, and that in treating his subject historically, he has shown a candour to be desired, but not always to be found in controversy.

It is impossible to peruse the ecclesiastical laws of the Anglo-Saxons without being struck with the observation, that they were derived from the continent, and adapted, with slight alterations, to the particular circumstances of England. On the continent the reparation of churches was a burden imposed on the holders of ecclesiastical property. To cite but one authority, the capitulary of Worms, published in 829,\* declares, that they who have the ecclesiastical benefices shall keep the churches attached to

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\* Baluze, i. 614.

them in repair. We shall find that the same rule, with some slight modifications, obtained in England towards the close of the Anglo-Saxon period. On the continent, the partition of ecclesiastical funds seems in general to have been quadripartite, though in some places it was tripartite. In England, notwithstanding the instructions communicated to Austin as the general rule of the Apostolic See, it seems to have been tripartite.

The earliest testimony in favour of a tripartite division of tithes in England is to be found in the Excerptions of Egbert, who was Archbishop of York for thirty-four years, and died in 766. Mr Hale objects to these Excerpts, that they are not canons promulgated by the archbishop in a synod of his clergy; and contends that they cannot have been compiled in his lifetime, because some of them are to be found in collections published on the continent after his death. To the first of these objections we reply, that these Excerpts were taken from ancient canons of the church, which the clergy were bound to obey when published by their ecclesiastical superior; and that they were not extracted and promulgated by Egbert for his private edification, but as rules for the conduct of his clergy, is apparent from the Oxford MS., where the title prefixed to them is descriptive of the purpose for which they were collected: *Hæc sunt jura sacerdotum quæ tenere debent*. In answer to the second objection, we admit that Egbert's Excerpt with respect to tithes is to be found, nearly word for word, in a capitulary of the Gallican bishops, published in 801. But it does not follow, as Mr Hale too hastily seems to infer, that the Excerpt, which passes in the name of Egbert, was taken from the capitulary of 801. It might have occurred to him that the bishops had possibly borrowed from Egbert, and if he had looked into Baluze he would have seen, that the capitulary of 801 does not pretend to be an original enactment, but is expressly stated to have been extracted by certain bishops, *ex diversarum scripturarum scriptis*.† The probability is, that both were taken from some earlier source.

The second testimony is from a pastoral charge written by the Monk Ælfric for a bishop of the name of Wulfsine. We shall not bewilder ourselves and our readers with an attempt to trace the history of Ælfric. He was the most celebrated Anglo-Saxon scholar of his time, and author of many works that have come down to us. It has been disputed what bishoprics and archbishoprics he held. We think the expressions, which seem to imply that he attained either of these dignities, have been mis-

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\* Wilkins' Concil. i. 102.

† Baluze, i. 359.

understood, and doubt whether he ever rose above the rank of abbot.\* It is sufficient for our present purpose that the charge in question was written for the use of Wulfstine, who was Bishop of Sherborn from 980 to 998. Mr Hale objects to the rules laid down by Ælfric for the government of the clergy, that they are not canons promulgated by authority. No one, who has ever read them, could suppose for a moment that they were intended to pass for canons. They were composed, as the introduction to them states, for the use of Bishop Wulfstine as a pastoral charge to be delivered for the instruction and reformation of his clergy. But, so far from being of less authority on that account, they afford the most irrefragable proof, that a tripartite division of tithes was at that time not only the law but the practice of England. Is it conceivable that an injunction to divide tithes into three parts,—one for the repair of the church, one for the poor, and one for the servants of the altar,—should have been composed for a bishop, as part of an episcopal charge to be delivered to his clergy, if no such practice had been then in existence? Is there a bishop of the present day who would make such a charge? Is there a bishop's chaplain employed to draw up a visitation charge for his patron, who would insert in it an injunction to the parochial clergy of the diocese to set aside one-third of their income for the repair of their church, and another third for the poor of their parish? Would not such a charge be considered ridiculous, and the author of it a person beside himself? But, what would appear to us absurd and out of place at present, must have appeared equally misplaced and absurd in the days of

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\* Mr Hale refers us to Mr Soames' History of the Anglo-Saxon Church for a very interesting account of Ælfric. We have looked into that work, and are by no means satisfied with the account it gives of Ælfric. Mr Soames has no doubt that Ælfric succeeded Kenulf as Abbot of Peterborough in 1005. If he had looked into the Chronicle of Peterborough (Sparke, ii. 31) he would have seen that Ælsine succeeded Kenulf as Abbot of Peterborough, and held that office for fifty years. It was the same Ælsine called Ælfrige in the Saxon Chronicle, who accompanied Queen Emma in her flight to Normandy, and not the learned Ælfric, as Mr Soames imagines. He is right in correcting Wharton, who makes Ælfric, Archbishop of York, to have been formerly Abbot of Winchester; but he is wrong in rejecting the authority of Stubbes, confirmed by the Peterborough Chronicle (in 1023), who makes him Prepositus or Prior of Winchester, before his elevation to the See of York; and by that very statement overthrows the hypothesis of Wharton and Soames, that Ælfric, author of the Epistles to Wulfstine and Wulfstan, who was certainly a monk and abbot, is the same with Ælfric Bata, Archbishop of York. Ælfric Bata speaks of the elder Ælfric as his master.

Bishop Wulfstine, if there had been no such division of tithes in his time.

We come now to the third and most conclusive evidence for the tripartite division of tithes in the Anglo-Saxon Church. We come to a declaratory law on the subject promulgated by the King and Witenagemot, or Supreme Legislature of the kingdom. In a constitution apparently of Ethelred II., it is written, 'concerning tithes, that the King and his Witan have decided and pronounced, even as the law is, that one-third of the tithes of every church shall go to the repair of the church, one-third to the servants of God, and one-third to God's poor and to necessitous persons in servitude.' No law can be more explicit or free from obscurity. It makes no new enactment, and merely records and confirms the ancient common law of the land. It is a declaratory statute, affirmative of the law as it then existed.

To this law, so clear and decisive in its provisions, Mr Hale objects that, in his opinion, it is not genuine; and, to corroborate his doubts of its authenticity, he produces a letter of the late Mr Price. We have read that letter with attention, and cannot but express our admiration that Mr Hale should have been misled by its contents. Whether it arose from the indistinctness of Mr Hale's enquiries, or from some misapprehension on the part of Mr Price, it is plain that the observations in the letter apply, not to the particular constitution of Ethelred directing how tithes are to be divided and distributed, but to the general contents of the volume of Corpus Library, in which that document is accidentally placed. The volume in question (S. 18 (201) C.C.C.C.) contains eighty-four different pieces of the most miscellaneous description, to some of which the observations of Mr Price are applicable, but not one of them to the constitution of Ethelred. If Mr Hale had only taken the trouble to read that constitution, and compare it with Mr Price's letter, he must have seen at once, that while he was questioning on one subject, Mr Price was answering about another. Mr Price says that some passages of the MS. are metrical. There is nothing metrical in the constitution of Ethelred; but in the same volume there are not less than six metrical pieces bound up with it. He calls it 'an assemblage of points of canon law.' There are no canons or allusion to canons in the constitution of Ethelred; but in the same volume there is a collection of forty-five canons forming a separate tract. It records, says Mr Price, certain practices 'observed beyond sea.' No such practices are mentioned in the constitution of Ethelred; but these words are to be found in some collections of Edgar, included in the same volume:—'All chronology,' says Mr Price,



'is neglected, the provisions of Athelstan being made to follow 'those of Edgar.' There is no neglect of chronology in the constitution of Ethelred. All the kings mentioned in it, Athelstan, Edmund, and Edgar, follow in the regular order of succession. It is true that the transcriber has inserted in the same volume the laws of Athelstan after those of Edgar, both being distinct and separate pieces. 'The collection,' says Mr Price, 'was made for private use.' Mr Price was fully aware, though it may be necessary to apprise Mr Hale of the fact, that there is no statute-roll extant of our Anglo-Saxon kings; and that (original charters excepted) we have nothing but copies made by private persons of the memorials of those times; the names of the transcribers being generally unknown, and the dates of the transcription seldom given.

It should be remembered that Mr Price was labouring under a mortal disease at the time Mr Hale applied to him for information. When employed at Corpus in collecting MSS. for his intended edition of the Anglo-Saxon laws, he must have seen and examined the volume in question; but from his letter to Mr Hale it is plain that he had bestowed no particular attention on the constitution of Ethelred. Interrogated about that tract—desirous to please Mr Hale—and unable, from the state of his health, to make a second journey to Cambridge—he seems hastily to have thrown together on paper his notes and recollections of the volume in general; having nothing of importance to say of the particular tract, which was the special object of enquiry. Mr Hale, glad to have the appearance of a respectable authority against the tripartite division of tithes, seems to have embraced his conclusions without examining the grounds on which they were formed.

But Mr Hale has himself examined the MS., and from his own inspection of it he is enabled to say, that of three persons who appear to have read it carefully, one has ascribed it to Ethelred; one has expressed a doubt whether that reference be correct; and one has ascribed it to Canute. All this may be true, without detracting from the authenticity of the law. Mr Hale is perhaps not aware, that many unquestioned fragments of the Saxon laws want the name of the king by whose authority they were enacted; and that in some cases it is doubtful to what period they ought to be referred. In the present instance the question lies between Ethelred and Canute. The preamble to this constitution states expressly, that it was made by the King of the Angles with aid of his Witan; and the King and his Witan are again brought forward as authorities for the declaratory enactment concerning tithes. In a subsequent part of the constitution mention is made of the death of Edgar, since which, it

is added, Christ's law has waned, and the King's law diminished—expressions which are certainly more applicable to the feeble government of Ethelred than to the vigorous administration of Canute.

Mr Price was not the only person consulted by Mr Hale. The opinion of another gentleman was asked. That opinion, given in writing, was at variance with the one expressed by Mr Price; but Mr Hale, having unfortunately mislaid the letter, has not produced it. As that gentleman is still alive, we regret that Mr Hale had not applied to him a second time for his opinion, instead of publishing, after the death of Mr Price, a letter written under the pressure of illness, which that gentleman had no opportunity of revising and reconsidering before it was printed. We regret this the more, because we have understood, on what we consider good authority, that the gentleman applied to after the death of Price,—who is one of the first of our Anglo-Saxon scholars,—did not found his opinion merely on his contempt of Wilkins and respect for Schmidt; but that after carefully examining the MS. in Corpus Library, and transcribing for Mr Hale the passage concerning tithes, he gave his deliberate judgment in favour of the antiquity of the MS. and of the genuineness and authority of the law, as an ordinance of the King and of his Witan assembled in *gemot*, binding alike on laity and clergy.

Another Saxon scholar of first-rate eminence has recently examined the disputed MS. It is his opinion that the handwriting is not later than the beginning of the twelfth century, and judging from the language, he thinks it a copy from a MS. yet more ancient. He has no doubt of its authenticity and authority; and comparing it with Wilkins' publication of the Anglo-Saxon laws, he finds the passage about tithes, which contains one grammatical error, correctly printed from the MS.

If to these opinions we add the authority of Wanley,\* no mean judge of Saxon MSS., we see no reason, notwithstanding the inspection of Mr Hale, to question the authenticity of the MS. or authority of the law.

'The fifth chapter of Edmund's Ecclesiastical Laws,' says Mr Price, 'declares that the bishop is to repair the church at his own expense.' We differ from Mr Price, and, with much greater hesitation, from the author of the *Historical Remarks*, in their exposition of this law. According to our interpretation, the bishop is enjoined to repair the house of God in his own bishopric, and to admonish the king that all churches of God

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\* Wanleii *Catalogus* 137.

be well furnished. The law directs that churches shall be kept in repair, and provided with all things necessary, but says nothing of the sources from which these expenses are to be defrayed.

But, if the law of Edmund be silent on that subject, the transactions that followed in the reign of Edgar are more explicit. At the accession of that prince, he found the minsters and churches occupied by canons, who spent their income where they pleased, neglected their churches, and discharged their clerical duties by vicars or deputies, who were too poor to keep their churches in repair, or to make decent provision for the celebration of worship. Indignant at this abuse, and grieved to see the revenues, that had been so lavishly bestowed on the church, no longer applied to the *reparation of churches*, to the *servants of the altar*, or to the *relief of the poor*\* (the three great articles of the tripartite division), Edgar, after ineffectual attempts to reform the canons, expelled them from their seats, and substituted monks in their place. In the further prosecution of his plans for the reformation of the church, he took measures to encourage and multiply parochial divisions, which were still imperfect in England. By a law, enacted with consent of his Witan, he declared, that if any thegn had a church on his bocland, with a churchyard annexed to it, he might retain one-third of the tithes of his estate for the use of his church; that is to say, for the incumbent he appointed to discharge the duty performed in it. Why was a churchyard to be annexed to the church? Because it was a churchyard that distinguished a parochial church from a private chapel. Why was one-third and one-third only of the tithe reserved for the incumbent? Because it was the priest's portion, the remaining two-thirds being at that time paid to the minster for the general service of the diocese. There can be little doubt that it is to this law we owe the excessive number of small parishes in England, every proprietor of bocland being desirous to have a priest on his estate of his own appointment.

Tithes were not the only fund appropriated by our Saxon ancestors to the reparation of churches. By a decree of the Council of Enham, passed in the reign of the same Ethelred, who published the declaratory law on the partition of tithes, the God-bots or pecuniary penalties incurred by sinners were applicable

\* *Dolens tam divites eleemosynas collatas ecclesiæ, non in ecclesia, non in ministris ecclesiæ, non in pauperibus expendi.*—*Monasticon*, i. 33 ex MS. Cotton. Domitian A. xiii.

in part to the same purpose.\* Nor was this all. By a law of Canute the whole body of the laity might be called upon to assist in the same pious work. 'To church repair,' says Canute, 'all people must by law give their help.'† That is to say, if other funds provided for the reparation of churches be insufficient, they must be repaired by help of the community. The enactment of Canute does not abolish the constitution of Ethelred, which declares that one-third of the tithes of every parish is appropriated by law to the reparation of the church. It does not abolish the decree of the Council of Enham, which applies to the same purpose the God-bots or pecuniary penalties incurred by sinners. It merely appoints a subsidiary fund, to which recourse may be had if the others are found insufficient. It would be a strange inference, that, because a new tax has been imposed to supply the deficiency of an existing one, the old tax is thereby repealed, there being no words to that effect in the new enactment. Considering the state of England at the accession of Canute—the ravages of preceding wars—the numberless churches plundered and destroyed by the heathen Danes—it is not unwarrantable to suppose, that the ordinary funds for the reparation of churches were insufficient; and that some extraordinary imposition had become necessary to restore the sacred edifices which had suffered devastation, and provide them with the vestments, crosses, and other things necessary for the celebration of worship. Would Mr Hale be satisfied with such a law at present? Would the clergy be content to contribute one-third of their tithe to the reparation of the church, on condition that if any additional sum was wanted, it should be raised by a rate on their parishioners? But, though the law of Canute abrogated none of the ancient provisions with respect to tithes, and left in particular the declaratory law of Ethelred unrepealed, we have little doubt that it served as an inlet for the introduction of Church Rates, and enabled the clergy gradually to throw on the laity the chief expenses of religious worship. A careful examination of the progress and succession of clerical encroachments after the Conquest leads us strongly to that opinion.

Under the Saxons, the laws of the Church and State were enacted by the same authorities, and administered by the same tribunals. The Conqueror, towards the end of his reign, with consent of his great council, separated ecclesiastical from secular jurisdiction, and directed that all questions of a spiritual nature should be tried by the bishop, not in the hundred court, but at

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\* Wilkins' *Leges*, A. S. 124.

† Wilkins' *Leges*, A. S. 143.

his episcopal residence, or where he chose; and should be decided, not according to the laws of the hundred, but according to the canons and ecclesiastical laws of the Church. By this enactment all questions regarding the appropriation and distribution of ecclesiastical income were withdrawn from the secular and transferred to the ecclesiastical courts. It would be in vain, therefore, to look for further information on this subject any where but in the acts and records of the Church. The notices derived from these sources are not numerous for some time after the Conquest, and not always explicit or free from ambiguity; but enough remains to show, that during the two following centuries, churches were repaired and provided with all things necessary for religious worship, chiefly, if not entirely, from ecclesiastical funds.

That, under the Conqueror, churches appropriated to monastic foundations continued to be repaired by those who enjoyed the tithes and other revenues of the church, appears from a fact incidentally mentioned in the *Monasticon*. Alberic, Earl of Northumberland, gave to St Cuthbert and to the monks of Durham the church of Tynemouth. After remaining deserted and without a roof for fifteen years the monks roofed the church at their own expense, and restored it to use.\*

We have little doubt that a diligent search of entries in the *Monasticon* during the eleventh and twelfth centuries, would bring to light many similar instances of parish churches appropriated to monasteries, continuing to be decorated and repaired at the expense of the monks, to whom their revenues had been assigned. Of the general principle, which then prevailed, that edifices dedicated to religion should be repaired out of the funds of the Church, we have an illustration in a bull of Pope Urban III. to Baldwin, Archbishop of Canterbury, in 1186. The archbishop is directed to divide into four parts the oblations offered at the shrine of Becket; to set aside one part for the monks, one part for the *fabric of the Church*, one part for the poor, and to employ the remaining fourth in such other good works as he pleased.† This injunction is the only allusion we have met with since the days of Austin to a quadripartite division of Church revenue in England.

To show that parish churches in general continued for a considerable time after the Conquest to be repaired from ecclesiastical funds, the author of the 'Historical Remarks' has referred to the proceedings of a Council held at York in 1195 by Hubert, Archbishop of Canterbury, in virtue of his legatine authority. Among

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\* *Monasticon*, i, 45.

† *Diceto. Imag.* 631.

the decrees of that Council he finds an order to 'the parsons and vicars of churches to take care and provide, *according to their competent incomes*, that such as require repair should be repaired.' Mr Hale objects, in no very courteous language, to the translation of the words—*secundum competentes eis pensiones*—which the author of the remarks has rendered *according to their competent incomes*; and it must be owned that the translation, though it gives the sense, is not a literal version of the original. But, if the passage had been rendered—*according to the pensions or payments pertaining to them*—what difference would it have made? The plain object of the law is to make parsons and vicars keep their churches in repair out of their ecclesiastical funds, and to contribute to that reparation in proportions corresponding to the incomes they severally derived from the living, which were as various as the private agreements they made with each other. In some cases, as appears from a subsequent Council,\* the rector was content with a moderate pension, and left to his vicar, with the duties, all the remaining profits of the benefice; and in such cases he was charged accordingly with the reparation of the church. Where, on the contrary, the rector kept the largest portion to himself, the charge of the vicar seems to have been proportionally abated.

The important point, as regards the controversy between Mr Hale and his opponent, is the evidence afforded by this decree, that in 1195 the rector or vicar, or both jointly, were bound to keep the church in repair out of the payments made to them in respect of the living. Not only was this burden imposed on them, but they were bound to provide fit and becoming ornaments for public worship; and, if the church could afford it, to have a silver chalice for the celebration of the eucharist. All this they were bound to do within a year after the entrance of Archbishop Hubert on his legatine authority; and if orders to that effect were not given before the expiration of that period, the injunction was to be carried in all points into execution *out of the revenues of their several churches*.†

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\* Concil. Dunelm. apud Wilkins' Conc. i. 580.

† We subjoin the original words of the decree as preserved by Hoveden:—

'Cum in domo orationis, quæ domus Dei nuncupatur, nihil debet esse indecens, nihil inordinatum, præcipimus, ut personæ et vicarii ecclesiarum studeant providere secundum competentes eis pensiones, prout ratio dicat et consuetudo approbata postulat, quatenus ecclesiæ, quæ reparatione indigent, reparentur. Item, cum ornamentis ministerio congruis ministrentur. Item, cum calice argenteo, ubi facultas suppetit, sacramentum eucha

Having justified, as we conceive satisfactorily, the author of the 'Historical Remarks' for the use he has made of Archbishop Hubert's decree, we shall not press the argument he has drawn from the acts of the Council of Oxford in 1222. We admit that the words *onera ecclesiæ*—charges or burdens of the church—are not sufficiently explicit, and may refer either to the repair of the church, or to other burdens or services attached to it. But we cannot help remarking, that among the decrees of that very Council there is one,\* which implies, that the expense of ornaments and of other things necessary for religious worship (no small articles in our modern Church Rates), continued still to be defrayed by the parson. The archdeacon is directed to make an inventory of the ornaments, utensils, vestments, and books belonging to every church in his district—to examine every year if they are in good condition—to see what additions have been made to them *by the parson*—and to notice the injuries they had received from malice or from neglect.

Many similar decrees of synods and councils are to be found in the early part of the thirteenth century. In a synod, for example, held between 1217 and 1226 by Richard de Marisco, Bishop of Durham, an order was made, that if the rector of any church died, leaving his church without a competent provision of sacerdotal vestments, or without books, or deficient in both; or if he left the buildings of his church in a decayed or ruinous state; so much should be taken from his ecclesiastical effects as would be required to repair the buildings, and supply what was wanting in the other necessities for the celebration of worship.† So favourably was this constitution received, that it was repeated in 1236 by Edmund, Archbishop of Canterbury, and extended over the whole of his extensive province.‡ At a still later period, in a synod held in 1246, by Richard de la Wich, Bishop of Chichester, directions were given, that churches should be decently roofed, and chalices, books, and other articles for religious worship, provided in sufficient number, and becoming condition, out of the goods of deceased ecclesiastics, who had neglected, when alive, to preserve and decorate their churches in a competent manner.§

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*ristæ ministraretur. Huic ordinationi terminum præfiximus ab initio nostræ legationis in annum. Quodsi hæc medio tempore executioni mandata non fuerint, decernimus, ut ante elapsum terminum de ecclesiarum redditibus dispositio nostra plenum sortiatur effectum.*—HOVEDEN, apud SAVILE, 430.

\* § 24.

† Concil. Dunelm. de pœna Archidiaconi, Wilkins' Con. i. 580.

‡ Constit. Provinc. S. Edmund, § 26, ib. i. 638.

§ Ecclesiæ vero honeste cooperiantur, calices et libri et omnia orna-

From these extracts it appears, that during the first half of the thirteenth century church buildings were repaired, and the vestments, books, and other necessities for the celebration of worship, provided out of the funds set apart for ecclesiastical uses. Nor was the amount inconsiderable. If we are to believe a statement made by the clergy to the Pope in the reign of Henry III., these burdens, with the addition of alms to the poor, and hospitality to travellers, absorbed one-half of their income.\* The parishioners may have been compelled, under the law of Canute, to help in the reparation of the church; but we have met with no direct proof, or even indirect hint of the fact, and find no indication of any specific services they were made to render, or of any particular articles for use or ornament they were called upon to furnish. The distinction, so carefully marked in after times, between the chancel and the nave, or body of the church, seems at that time to have been unknown in England. The first mention of it we have seen is found in a bull of Pope Honorius III. to the Scottish clergy in 1225.† The clergy of Scotland, having no metropolitan, had no right, as they conceived, to hold a national council. To remedy this inconvenience Pope Honorius issued a bull conferring on them that privilege, and sent with it a body of canons, which they were to adopt for their future government. Amongst these canons there is one, which directs that churches shall be built of stone, and imposes on the rector the obligation of erecting the chancel, and on the parishioners the erection of the church itself. The same canon requires that churches should be provided with ornaments, books, and other necessities before consecration, but says not by whom they are to be furnished. Mr Hale has found a document in the *Registrum Roffense*,‡ which shows, that about the same time the monks of Rochester, as rectors of a vicarage, were bound to repair the chancel of a parish church; but this document is silent with respect to the persons who were to repair the body of the church. It is not till 1250 that we find the obligation of repairing the nave of the church imposed in direct terms on the parishioners. In that year, Walter de Gray, formerly chancellor of the kingdom, and at that time Archbishop of York and Papal legate—a prelate more remarkable for his political subserviency than distinguished for his learn-

menta ecclesiastica sufficientia sint, et honesta, et de bonis clericorum decedentium, secundum quod cantum fuerit, suppleantur, nisi in vita sua ecclesias ornaverint competenter.—Wilkins' Con. i. 691.

\* Matthew Paris in 1246.

† Conc. Provinc. Scotican, § 5, apud Wilkins' Conc. i. 608.

‡ Hale, 37. Registr. Roffens, 387.



ing, or respected for his virtues—published a provincial constitution, declaring what were the burdens to be borne by rectors and vicars, and what were the obligations to be exacted from their parishioners. By this constitution \* the parish was to keep in repair the body of the church and the bellhouse, to enclose the churchyard, and to provide a vast number of ornaments, vestments, crosses, bells, and other things necessary for religious worship; the whole of which are enumerated at great length, and with great minuteness. No burdens were reserved for the rector or vicar, except the repair of the chancel and parsonage, and the cost of such articles as the ordinary might by former constitutions compel him to supply. The example was contagious, and, before the end of the century, the provisions of Walter de Gray were extended to every part of the kingdom. In 1280, Archbishop Peckham introduced these innovations, in nearly the same words, into the province of Canterbury.† His suffragans, especially Peter Quivil, Bishop of Exeter, followed his example, *consuetudine contraria non obstante*; ‡ and in 1305, Robert of Winchelsey confirmed all his predecessors had done.§ As far as Church authority could go, the system of Church Rates was established on its present footing.

In prosecuting these innovations, the clergy are seen advancing gradually, with hesitating and uncertain steps, as if fearful to provoke resistance to their encroachments. In 1246 we meet with the first ordinance that enjoins parishioners to fence and enclose their churchyards; but the same statute declares, that the goods of the church are to be bestowed, as far as may be, on the poor; that rectors are to reside and exercise hospitality; and if they leave their churches unfurnished, that the deficiencies are to be supplied from their effects.|| In 1255 the rectors and vicars in the diocese of Durham are directed to attend to the fabric and ornaments of their churches, *quantum ad eos pertinet*; ¶ leaving it undetermined what belonged to them, and what belonged to others. In 1256 the regulations of Walter de Gray were partially adopted in the diocese of Salisbury. The parishioners were charged with the nave, the steeple, the bells, and other articles; but, in addition to the chancel and altar, the parson or vicar was to find cups and other necessities for the eucharist.\*\* To former lists of linen clothes, vestments, books, crucifixes, candlesticks, cups, bells, and other utensils to be provided by the parish, Peter

\* Wilkins' Conc. i. 698.

§ Ibid. ii. 280.

\*\* Ibid. i. 713.

† Ibid. ii. 49.

|| Ibid. i. 691.

‡ Ibid. ii. 138.

¶ Ibid. i. 704.

de Quivil made considerable additions; leaving little or nothing, besides the repair of the chancel and parsonage, to be done by the rector.

How differently the Church in former times was provided with these articles, appears from an enactment of William, Archbishop of York, in 1153.\* After lamenting bitterly, that when a vicar or rector died, leaving his church insufficiently provided with ornaments, it was usual for his successor to make exorbitant charges for dilapidations, and then to apply the money to his private use, instead of expending it on the objects for which it had been obtained, he proceeds to state, that in order to repress such iniquity, the dilapidations claimed by new incumbents shall in future be estimated by the lawful and discreet men of the vicinage, and the amount expended at the sight and under the inspection of persons specially elected for the purpose. In many subsequent synods what things were understood by the ornaments of the Church are frequently enumerated at length, and the archdeacon is directed to see that they are in sufficient number, and in proper condition; but not a word is said of the persons by whom they are to be provided.† If any inference is to be drawn from the expressions used on these occasions, it rather seems that they were to be furnished at the expense of the Church. When, for instance, it is ordered that churches *secundum facultates suas decentibus fulgeant ornamentis*, and where they are rich, that they are to have a larger assortment of furniture, it seems implied, that it was from the funds of the church, and not from the parish, that these articles were to be provided.‡ It was not till the Council of York, in 1250, that the whole or any considerable part of the ornaments of the church was thrown upon the parish.

The progress of these innovations is illustrated by some corresponding changes in the regulations concerning churchyards. There seems to have been a doubt in the twelfth century whether the trees and herbage growing in churchyards were spiritual or temporal property. To put an end to these doubts, William, Archbishop of York, published a constitution in 1153, by which he prohibited laymen from using the herbage, or felling and carrying away the trees that grew in churchyards, without leave of the rector; forbidding at the same time rectors and vicars themselves from applying the trees to any other use than to the reparation of the church, and of the parsonage attached to it.§ In 1287

\* Wilkins' Concil. i. 425. † Ibid, i. 587, 623. ‡ Ibid, i. 666.

§ Nisi in ecclesiæ suæ reparationem et ædificationem mansi proprii ad ecclesiam pertinentis.—Wilkins' Conc. i. 425.

the question had come again into discussion, and given rise to frequent disputes between parsons and their parishioners. To put an end to these altercations the property was again declared to be in the rector; but, on the ground that trees in churchyards were often planted there as a screen and protection to the church against wind, he was forbid to fell them, unless they were wanted for the necessary repairs of the chancel. If the parish be poor, it is added, he may in charity allow some of them for the repair of the nave; which we do not command to be done, but when it is done we commend it.\* This last and final decision seems to have given so much satisfaction that it was afterwards incorporated in the statute-book.† We have in these proceedings a striking illustration of the progress of ecclesiastical usurpation. What was the duty of the parson in 1153 is represented as the duty of the parish in 1287. What was obligation in 1153 had become charity in 1287.

It is natural to enquire what causes were in operation during the thirteenth century that instigated the clergy to this course of systematic encroachment; and what were the circumstances in England that enabled them to succeed. We believe it was the multiplied exactions of the Roman see which drove them to these measures; and that it was the weakness and connivance of the English Government in these exactions which prevented any effectual resistance to their enterprises. Every one knows that during the eleventh and twelfth centuries there was an arduous and protracted struggle throughout Europe between the temporal and spiritual authorities. The latter, under the guidance of the Roman Pontiffs, eventually succeeded. In whatever light this contest may be placed by modern historians and polemics, it was a struggle of moral and intellectual power against brute and ignorant violence. Happily for the world the Popes prevailed; and, as usually happens, where principles form the subject of discussion, both parties were improved by their mutual contention. At the conclusion of the contest the enemies of improvement were further advanced than its friends had been at the commencement. While the battle raged, the clergy, who were the demagogues of those days, fought, with some few exceptions, under the banners of the Pope; but, like the soldiers of Cromwell and Napoleon, when the war was ended, they found their general had become their master. In no country had the Papal victory been more complete than in England. The pusillanimous John, after rashly

\* Wilkins' Conc. ii. 140.

† Ne rector prosternat arbores in cœmiterio.—Statutes at large, i. 221.

provoking a contest with the see of Rome, had been induced by his fears to subject his crown to the feudal superiority of the Pope; and though that ignominious dependence was not long maintained in its full extent, the whole reign of his successor is marked by more than usual subserviency to the Roman See. Deprived of any effectual protection from their king, the English clergy were left a prey to the rapacity of the Pontifical court; and as the Popes, during the greater part of the century, were engaged in never-ending contests with the Suabian Emperors and Kings of Sicily, their occasions and demands for money were unceasing and exorbitant. The grounds of their applications were various, and sometimes shameless and profligate in the extreme. On one occasion the Papal legate, in an assembly of the English clergy, after a frank confession of the venality and corruption of the court of Rome, alleged its poverty as an excuse, and modestly asked from every cathedral two stalls, and from every monastery the subsistence of two monks, as the price of its abstinence in future from these malpractices.\* In every page of Matthew Paris we meet with complaints of the rapacity and exactions of the Papal court. It was in vain for the clergy to resist. If they appealed to the king as their natural protector, they found him in league with their oppressors. In the bitterness of their anguish they exclaimed, 'wo betides the sheep when the shepherd confederates with the wolf.' If they returned a direct refusal to the Papal legate, who demanded their money, they were threatened with interdicts and excommunications. If they joined to send an embassy to Rome with their complaints, the subtle Italians, with whom they had to deal, found means to disunite them and break up their councils. To their firm and spirited remonstrances, smooth words and evasive promises were sometimes given, and at other times angry and menacing replies. It is a striking proof that the ancient tripartite division, if not strictly observed in practice, was still remembered and respected as a legal obligation in England, that, in a memorial presented by the parochial clergy of Berkshire, it is urged against the papal demand of part of their income, that, by authority of the Fathers, ecclesiastical revenues are appropriated to the *church*—to the *clergy*—and to the *poor*, and ought not to be diverted to other uses without the authority of the Universal Church.† But, though the clergy

\* Matthew Paris in 1226.

† Math. Paris in 1240. We subjoin the words, as the last clerical manifestation in favour of the tripartite division. Cum ex auctoritatibus patrum sanctorum fructus ecclesiarum in certos usus, puta, ecclesie, mi-

murmured, remonstrated, and threatened resistance, they were in the end compelled to submit. Harassed and impoverished by these exactions, they seem to have turned their eyes towards the laity; and, finding no means to pay Peter but at the expense of Paul, to have resorted to the expedient of throwing on the shoulders of their parishioners the burdens which they had hitherto borne on their own. About the middle of the century, when most oppressed by the demands of their spiritual Father, they seem to have fallen upon this scheme, and, before the end of the century, they had successfully established their usurpation. When the clergy of the present day lament, as some of them do, the loss of soul-shot, plough-shot, light-shot, church-shot, and other ecclesiastical dues paid by the Saxons (though many of them still exist under other names), they ought to recollect, that they are also liberated from the payments to Rome, which fell at times with such oppressive severity on their predecessors. The demand of the Papal Legate from every clergyman was on one occasion not less than one-third of his income if he was resident, and one-half if he was non-resident.\* The clergy, it is true, still pay annates and first-fruits as in Papal times; but they are well aware that (by whatever artifice it was effected) these payments, in their real amount, no longer correspond, as they anciently did, to their nominal designation. \*

It is not to be supposed that the laity submitted quietly to these innovations; and for some time they had an effectual remedy in their hands, which they failed not to use with good advantage. When the Conqueror separated the ecclesiastical from the secular courts, he necessarily reserved to himself and to his successors the right of determining what pleas were of a temporal and what pleas were of a spiritual nature. If the Church courts exceeded their jurisdiction, by bringing lay pleas before them, application was made to the Court of King's Bench, where, by intendment of law, the King is supposed to be always present, and personally to exercise his authority. If proper cause was shown, a prohibition was granted to stop the proceedings of the ecclesiastical courts; the disobedience of which, to the no small indignation of the clergy,† was followed

*nistorum et pauperum sint deputati, non debent in alios usus converti, nisi auctoritate ecclesie universalis.*

\* *Math. Paris in 1246.*

† *Wilkins' Con. i. 723—730.*

by attachment and imprisonment. To this remedy the laity had recourse, when called upon to repair churches and enclose churchyards; and, if we are to judge from the complaints of the clergy, they found it effectual. In 1257, soon after these innovations began, the whole body of the prelates joined in a public remonstrance to the king and magnates, stating that, when they summoned persons before them for refusing to enclose churchyards, or roof churches, a prohibition was obtained from the common law courts, to the injury and disparagement of the church.\* No effect seems to have followed from this remonstrance. The pious and devout most probably submitted without opposition to this new device of their spiritual directors. The malignant, as they are termed by the clergy, continued to apply for prohibitions with success. Among the articles of complaint exhibited by the Archbishop of Canterbury and his suffragans in 1285, it is stated as a grievance, that, when the Ordinary attempts to compel the rich and powerful to repair churches, or discharge other customary parochial duties, he is met by a prohibition from the courts of law.†

The effect of these prohibitions was to stop the proceedings that had been instituted in the ecclesiastical courts; and the object of the laity in applying for them was doubtless to save their money, without exposing themselves to the spiritual censures, which would otherwise have followed their disobedience. The Attorney-General‡ has accordingly described them as interpositions of the courts of common law 'for the protection of refractory parishioners.' Dr Nicholl§ finds fault with this expression, and maintains they were issued by the courts of law, not for the protection of refractory parishioners, but 'for the assertion and vindication of their own jurisdiction.' What were the motives of the judges for their interference, is a question as unimportant as it is incapable of solution. The real point for consideration is, what was the effect of the prohibitions they granted? That it was to arrest all farther proceedings in the action that had been raised, and thereby protect the refractory parishioner from the spiritual censures he must have incurred, if he persisted in his disobedience, Dr Nicholl cannot deny. That it left him still exposed to prosecution at common law for refusing to comply with the demands of the church, is a proposition which the learned civilian rather insinuates than asserts,

\* Wilkins' Con. i. 728.

† Ib. ii. 117.

‡ Letter to Lord Stanley, 4.

§ Observations on the Attorney-General's Letter, 17.

and which, we apprehend, he would find it extremely difficult to prove. If the courts of common law, after prohibiting the spiritual courts from going on, had claimed for themselves and exercised a right of compelling refractory parishioners to repair their churches and churchyards, there must have remained some evidence of the fact, some traces of the law. Cases, we presume, there are none; as Dr Nicholl has not referred to any. Law authorities there are none. In Bracton we find nothing on the subject. In Britton, we are told that the repair of churches and churchyards are pleas of which Holy Church alone has cognizance. But if there is neither precedent nor authority for the supposition, that, after a prohibition which stopped proceedings in the spiritual court, the defendant was still liable to prosecution in the courts of common law, what ground is there for objecting to the statement of the Attorney-General, 'that the courts of common law interposed for the protection of refractory parishioners?' Did they not interpose by prohibition, and was not that prohibition an effectual protection to the defendant? If it had been otherwise—if the effect of the prohibition had been merely to transfer the cause from the spiritual to the temporal courts, it is not easy to conceive why the *divites et maligni*, who refused to pay rates, persevered for so many years in applying for prohibitions that were of no use to them; and, if the payments demanded could be obtained at common law, it is equally difficult to understand how the bishops could have ventured to say of these prohibitions, that they impeded the service and detracted from the honour of the Church.

This contest between the common law and ecclesiastical courts was not brought to a close till the reign of Edward I. By his writ of *circumspecte agatis*, which has been long held to be one of the statutes of the realm, that prince defined the limits of temporal and spiritual jurisdiction, the unsettled boundaries of which had, in that very year, been the subject of remonstrance from his clergy. By that writ, the judges are forbid to punish bishops for holding pleas of things merely spiritual; among which are included pleas for leaving churchyards unenclosed, or for leaving churches unroofed or insufficiently decked. It imposes no additional burdens on the subject, and confers no coercive powers on the spiritual courts which they had not before. It does not recognise, as Mr Hale seems to imagine, the obligation of laymen to uphold churches; but, by divesting refractory parishioners of their former remedy, when called upon by the ordinary to perform that service,—by depriving them of the protection they formerly received from the courts of common law,—it left them exposed, without resource, to the severity of

ecclesiastical censures, if, in matters pertaining to the spiritual courts, they were disobedient to ecclesiastical authority. Fortified by this writ, which took from the courts of common law all right of interference with the pleas reserved for their exclusive jurisdiction, the clergy found no farther obstacle to their pretensions, nor means of resistance to their demands. Assessments for the reparation of churches, and other parochial burdens, continued to be in form voluntary grants of the parishioners; but, if the proposed assessment was rejected by the vestry, or if any individual refused to contribute his *quota*, spiritual censures, with all the consequences which then attended them, were ready at hand to enforce a prompt and entire submission. Since the Reformation the case is altered. The censures of the church, like the thunders of the Vatican, have lost their efficacy. Whether they can be revived and again made formidable, is a doubtful question. Dr Nicholl seems disposed to try it.

In his 'Letter to Lord Stanley,' the Attorney-General has entered into a full examination of the measures which have been proposed for enforcing, by proceedings in the courts of law, the assessment and exaction of a Church Rate, where it had been rejected and refused by a vestry regularly summoned to take it into consideration; and, after discussing the various projects that have been suggested, he arrives at the important conclusion, 'that a legal Church Rate can only be made by a majority of the parishioners in vestry assembled; and that if they meet and refuse to make a rate, there are no means by which a rate can be raised.' The same doctrine is held by Mr Perceval. 'Rates, up to this hour,' says that reverend gentleman, 'are a voluntary contribution on the part of the parish, to which, if they refuse, there is no earthly power to compel them.' Dr Nicholl, on the other hand, attempts to prove 'that, from time immemorial, the parishioners have been under a legal obligation to provide the means for sustaining the fabric of the church, and for the decent celebration of divine worship therein;' and having established, as he thinks, that liability, he contends there must be a 'legal remedy' to enforce it. 'It is enough for my purpose,' says the learned civilian, 'if I can show that the repair of the church is, by the common law of England, *per consuetudinem Angliæ*, thrown upon the parishioners, and that that repair was effected, from time immemorial, by a rate levied on the parishioners.'

To this statement, which contains the essence of Dr Nicholl's argument, we reply, that the common law of England is unquestionably founded on custom, but not on such custom as in the spiri-



tual courts would be held sufficient.\* It is on good and lawful custom that the common law of England is founded, and not on bad custom; which, according to an 'established maxim of law, 'ought to be abolished and no longer used.' The custom, which Dr Nicholl attempts to foist into the common law of England, we maintain to be a bad custom, for the reasons that follow.

1. To make any custom at common law good, 'it must have 'been used so long that the memory of man runneth not to the 'contrary, so that if any one can show the beginning of it, it is 'not a good custom.'† But we have shown that, since the accession of Richard I., which is the beginning of legal memory, churches were repaired and the expenses of worship defrayed, not by the parishioners, but out of ecclesiastical funds dedicated to these purposes, which are still enjoyed by the clergy, or by lay impro-prietors.

2. A custom to be good at common law, 'must have been 'peaceable and acquiesced in, not subject to contention and dis- 'pute.'‡ But we have shown that, till the writ of *circumspecte agatis*, the reparation of churches by parish rates was frequently contested by parishioners; and, with the aid of prohibitions from the common law courts, successfully resisted.

3. Customs to be good, 'must be compulsory, and not left to 'the option of every man, whether he will use them or not.'‡ But, ever since rates have existed, it has been left to the parishioners assembled in vestry to determine what rate they will impose, and subject to the liability of ecclesiastical censure, whether they will impose any rate at all.

The custom alleged by Dr Nicholl wants, therefore, the essentials of a good custom at common law, and, if it cannot be enforced by spiritual censures, the courts of common law are not bound to enforce it. Not being a good custom, there is no legal liability in the parishioners. They are bound by law to meet and consider whether they will grant a rate, and to what amount.

\* 'The reason,' says Lord Holt, 'for which the spiritual court ought not to try customs is, because they have different notions of customs, as to the time which creates them, from those that the common law hath. For in some cases the usage of ten years, in some twenty, in some thirty years, made a custom in the spiritual court; whereas by the common law it must be for time immemorial. And, therefore, since there is so much difference between the laws, the common law will not permit that court to adjudge upon customs, by which, in many cases, the inheritance of persons may be bound.'—BURN'S *Ecclesiastical Law—Prohibitions*, § 6.

† Blackstone, i. 76.

‡ Ib. i. 78.

Having met, they may grant what they please, or refuse to make any grant at all. As the House of Commons may be compelled to meet by the King's proclamation, so the vestry may be made to assemble by summons from the churchwardens. When met, whether the attendance at the vestry be numerous or scanty—whether the House of Commons be well or ill attended, provided there is a sufficient number of members to form a House—they are competent to transact business, and may grant or refuse supplies at their discretion. If a majority of the parishioners, who have been legally convened, and who have met in vestry, agree to impose a Church Rate on the parish, their assent is binding on the whole body of the parishioners. But, if they dissent, and refuse to tax themselves, there is no tribunal that has power to coerce them.

That, in the darkness of the thirteenth century, the ignorant laity should have been partly cajoled and partly terrified into an acquiescence in these clerical usurpations, is not surprising. But, when it is considered that, at the dawning of the Reformation, the old canons and laws of the Universal Church still lived in the remembrance of many, it is extraordinary that the abuse was not corrected. Not to speak of a petition of the Commons in the reign of Henry VI., which recites, 'as oold custome was, that thyrd parte of the goodes of Holy Chirche should be spendyd within the same parochie upon the pore and the nedy of the parochie;\* so late as 1509, we find Edmund Dudley, the noted minister of Henry VII., a lawyer of no small eminence, calling on the clergy to employ 'the profyts and revenues of thir benefyts as thei by thir owne laws are bound to do, that is, one part therof for thir owne lyving in good household hospitalite. The second, in deedes of charite and almes to the poore folkes, and specially within thir dioces and cures where thei have thir lyving, and the third part thereof for the reparyng and building of thir churches and mansyons.' Dr Nicholl asks, with great simplicity, why, if these laws were binding on the clergy, they were not compelled by 'due course of law' to fulfil them. He forgets that, by the writ of *circumspecte agatis*, the common law courts could not interfere in these matters; that the courts Christian were in the hands of the clergy; and that Dudley's exhortation was merely an *argumentum ad verecundiam*, which made no impression on the clergy so long as there was no pecuniary penalty to enforce it.

The negligence of the Reformers in not calling on the clergy

\* Rolls of Parliament, iv. 290.

to discharge the ancient obligations, to which, as Dudley observes, they were still liable by their own laws, is one of the many proofs, that the persons who at that time directed the affairs of State were more solicitous to partake in the spoils of the Roman Catholic Church than to relieve their poorer countrymen from the burdens she had imposed. Having taken from the church what they could turn to their own profit, and conceded as little as possible to the religious zeal of the sincere reformers, they retained as much of her ceremonies and hierarchy as the impoverished state to which they had reduced her would admit, and left the bulk of the people subject to all the impositions she had introduced.

There is still one point of this controversy which we have not touched upon. In a very intemperate and malignant publication, addressed to the ignorant and uneducated classes of the community, some anonymous defender of Church Rates, amidst many other unfounded allegations, asserted, that the Church-Scot of the Saxons was the same as our present Church Rate. The author of the 'Historical Remarks' has shown how utterly groundless was this assertion; and Mr Hale not only admits that, on this point, he has made out his case, but expresses his own regret that the advocates for Church Rates had rested any part of their argument on so baseless a foundation. Still, however, he appears to cling with a longing and affectionate regard to the doctrine he is compelled to abandon; and, after attempting to vindicate, as was most necessary, the moral character of its anonymous propagators, he seems inclined to the opinion, that Church-Scot, though not the same, was something akin to Church Rate; that it was a contribution, if we understand him rightly, for the fabric of the church, and not for the sustenance of the clergy. All we can do is to refer him to an ordinance of Athelstan, in which he will find Church-Scot, Soul-Scot, and Plough-aims classed together, and ordered to be rendered to the holy places where they are due, and to be there enjoyed by those who are willing to serve their churches; that is, by the resident clergy.

Since the preceding observations were written, there has been an attempt to exact a Church Rate in the parish of Braintree, in Essex, imposed by the sole authority of the churchwardens, after the rate had been rejected by the parishioners duly summoned and assembled in vestry to consider of it. Application has been made for a prohibition from the Court of

Queen's Bench; and, during next Hilary term, the validity of the rate will be there tried.

It would be presumptuous in us to obtrude any opinion of ours in a case which will be argued by the first legal abilities, and decided by the highest judicial authorities of the realm. We shall, therefore, content ourselves with a simple recapitulation of the conclusions to which we have been led in our historical examination of the subject. We have shown,—

1. That in England, as in other Christian states, churches were for many centuries repaired, and the expenses of religious worship defrayed, out of ecclesiastical funds set apart for these purposes; which funds are still enjoyed by the established clergy, or by lay proprietors possessed of what was formerly church property;

2. That churches continued to be repaired, and the expenses of public worship to be defrayed, out of these funds, *after the commencement of legal memory*, and, consequently, that no subsequent custom, introduced by the ecclesiastical courts, can create a liability at common law, imposing on parishioners the obligation to discharge these burdens;

3. That no statute law has imposed these burdens on parishioners;

4. That although for ages churches have been repaired, and the expenses of public worship defrayed by Church Rates, this has been done by voluntary assessments, made from time to time, as occasion required, by the churchwardens and a majority of the parishioners assembled in vestry, and in no other way;

5. That spiritual censures are the only means of coercion which the wisdom of the law has intrusted to ecclesiastical courts.

To these conclusions we may add (what is admitted on all sides), that when the ecclesiastical authorities have attempted to impose Church Rates on a refractory parish, by appointing commissioners to rate and tax the parishioners, their attempts have been repudiated, and their commissions declared illegal by the courts of law. The substitution of churchwardens for commissioners appears to be no less an encroachment on the ancient right of the parishioners to assess themselves; and, after the judicial declarations of Lord Lyndhurst and of Baron Baillie from the bench, there seems no ground or pretext for this novelty.

ART. III.—*Narrative of an Expedition into the Interior of Africa, by the River Niger, in the Steam-Vessels Quorra and Allurkah, in 1832, 1833, and 1834.* By MACGREGOR LAIRD and R. A. K. OLDFIELD, surviving Officers of the Expedition. 2 vols. 8vo. London: 1837.

IT is a remarkable fact that the quarter of the world in which are found the most ancient monuments of civilized society, is that also which continues longest to defy the curiosity of man. Inscriptions remain which record the triumphs of the Egyptian Pharaohs nearly four thousand years ago, over Ethiopian tribes as far south as the junction of the White and Blue Rivers. At the present day our knowledge of the Ethiopian tribes extends further, perhaps, than that possessed by the Pharaohs; yet how limited is it, how indistinct and stationary, compared with every other branch of human enquiry! Not more than three centuries and a half have elapsed since the new world was discovered: within fifty years after the discovery of America, that immense continent was almost completely circumnavigated, and its coasts were delineated with wonderful accuracy, considering the resources of that age. European colonies then flowed in upon it, bringing with them the seeds of civilisation, and a new world really arose where a chaos only had been discovered. How different has been the fate of Africa? Cradling, as we have observed, four or five thousand years ago a civilisation which, though changed or obscured, has never been wholly obliterated, that portion of the globe is still but little known!

The obvious cause of our ignorance of the African continent, is the nature of the country, which presents, towards the quarters whence European travellers were most likely to arrive, obstacles not insurmountable indeed, but yet sufficient to exhaust a traveller's ordinary means, and to turn aside the current of ordinary curiosity. An immense burning desert, from six hundred to one thousand geographical miles in width, stretches from the Atlantic ocean to the Red Sea, interrupted only by the narrow valley of the Nile. The crossing of so broad a tract of parched inhospitable sand, affording neither shelter, food, nor water, is a dangerous and extremely disagreeable task, even at the present day; but in ancient times, before the camel species had been multiplied so far westward, it must have been nearly impracticable. The barbarousness of the natives has been often alleged as one cause of our imperfect acquaintance with Africa, but without due consideration. The fact is, that those natives, so far from being avoided, have been from the earliest times a chief article of commerce with those

nations who had the opportunities of approaching them. The same peculiarities of physical constitution which prevented strangers from penetrating to the interior of that continent, condemned its aboriginal possessors to comparative barbarism, by debarring them from mixture and varied intercourse with the rest of their species; by reducing their social condition in some measure to a state of torpor; and by confining their experience wholly to the torrid zone, where nature, too vigorous to be controlled or coped with by infant art or industry, so easily keeps the upper hand.

It must not be supposed that the ancients had any knowledge of the country south of the Sahrá or Great Desert. Herodotus distinctly tells us that Lybia extends towards the south into immeasurable deserts. It was through this desert that the Nasamones, travelling westwards, arrived at a river, evidently the Niger, or more correctly Nigir, of subsequent writers. We are told by Strabo, Pliny, and their followers, that the Nigritæ, who took their name from that river, were situate between the Garamantes and the Gætuli, that is to say, between Fezzan and Morocco; and lastly, Ptolemy very clearly fixes the sources of the Nigir in the chain of Atlas, uniting, by a contrivance familiar to the first efforts of systematic geography, all the streams which flow from the southern face of those mountains into one goodly river. On this river he places *Nigira Metropolis*, which most modern geographers have agreed to consider as the Timbuctú of the present day; without troubling themselves with the question whether the origin of Timbuctú be not comparatively recent. Their supposition, however, obliges them to admit that Ptolemy has entirely overlooked the Great Desert—a remarkable oversight, truly, in one whose exactness in details of longitude and latitude, in the midst of enormous pervading errors, is so strenuously vindicated by his interpreters, when it serves their purpose to do so.

The Greek and Roman geographers have been sadly misquoted and misconstrued in reference to the interior of Africa and the river Nigir; and if our space or plan permitted such a digression, we could easily show from their own words, that they meant to place that river on the northern side of the Great Desert. But we shall be satisfied with citing two very explicit passages. Pliny, who is much relied on by those who maintain that the Nigir of the ancients was south of the Sahrá, relates, on the authority of King Juba, that the Nigir, after sinking in the sand, rises again and flows into the Nile. Now mark the terms in which he commences this statement: 'The Nile,' he says, 'rises in Lower Mauritania, not far from the sea.' The same author is contented to cite Homer in support of the opinion, that beyond the Great Desert dwelt the Ethiopians or Blacks. Again, Strabo

lets fall the following significant expressions: 'The tribes that dwell in Lybia (that is in the Desert), are but little known: they are seldom visited by strangers; and the few natives who ever come to us from any distance have but scanty information, and that not always credible. This, however, is the sum of their accounts. The people who are farthest to the south they call Ethiopians (or Blacks). Below (that is nearer than) these, the most considerable tribes are the Garamantes, the Pharusii, and the Nigritæ; and next to these the Gætuli.' Does not this passage teach us very clearly to distinguish between the country of the Nigritæ, or of the Nigir, and that of the Ethiopians or Blacks in the remotest south?

In the seventh century, the Arabs first began to figure conspicuously on the stage of African affairs. Animated and united by religious enthusiasm, they conquered Egypt, whence their victorious progress extended rapidly towards the south and west. Themselves children of the Desert, inured to the hardships, and acquainted with all the resources of nomadic life, they easily and naturally bent their steps over those trackless wastes which looked so forbidding to the inhabitants of Greece and Italy. They penetrated in a short time to the Ber-es-Sûdan, that is, the country of the Blacks or Negroland, of which they are entitled to be considered by us as the first discoverers. Even at the present day, after the persevering efforts made of late years, chiefly by the British, with the sacrifice of some valuable lives, for the purpose of penetrating the mysterious regions of Central Africa, there are many gaps which we are obliged to fill up entirely from the Arab writers.

The Arabs, as masters of the camel, were eminently qualified to explore a wide extent of desert country, but as writers they had little merit. They are too often dry and obscure, passing over, with the fewest words, the matters of greatest interest. There is, however, but one of their defects which needs to be animadverted on in this place. They were servile followers of Ptolemy; they copied even when they had the means of correcting him. Moreover, they often borrowed his opinions without citing his authority, and thus kept error in countenance, by appearing to be independent testimonies, when they were only repeating at second hand. Among the names which they borrowed from him was that of the Nigir, which they applied of course to every considerable river met with in Negroland. Supposing, in the spirit of ignorance, that all the great streams of Central Africa, with which they had some acquaintance, but of which they knew neither the beginning nor the end, were connected together, so as to form one watery coil across the African conti-

nent, from the Senegal to the Nile of Egypt, they gave to that hypothetical river, or to its several parts, with no great constancy, the name of Nigir. So long as the geography of Central Africa was wrapped in darkness, the errors of a too eager curiosity in seeking for the Nigir might be easily excused. The authority of ancient authors misunderstood, and the intrinsic wonders of the river itself, uniting, as was supposed, the waters of Western Africa with the Nile, were sufficient to dispose to credulity. But now the delusion is dispelled. We know that the great river of Negroland, the Quorra, neither sinks in the sand nor joins the Egyptian Nile, nor bears any resemblance to the Mauritanian river mentioned by the ancients; and we cannot avoid smiling at the pertinacious misapplication of a name, which entitles the exploration of a river flowing into the Bight of Benin, 'an expedition into the interior of Africa *by the river Niger*.'

The erroneous estimate formed of the knowledge which the ancients possessed of Central Africa has had occasionally its influence, no doubt, in stimulating the moderns to prosecute the discovery of that region; and on that account, as well as for the sake of deprecating the continuance of an absurd misnomer, we have made the foregoing remarks on the river Nigir. We shall now proceed briefly through the chief epochs of African discovery, till we arrive at the occasion of Mr Laird's expedition.

The discoveries of the Portuguese in the fifteenth century along the coast of Guinea, naturally directed attention to the unknown interior of Africa, and much information was collected in consequence. Some of the Portuguese adventurers penetrated a considerable way up the country; and one of them, named Fernandez, seems to have taken the same route which was subsequently trodden by Mungo Park. Under ordinary circumstances the discoveries made on the coast would have led to others further inland, until the whole country would have been at length laid open. But with the tide of events the curiosity of the European world was carried impetuously in another direction. The discovery of the Passage to India by the Cape of Good Hope, and soon after that of America, irresistibly seized on the minds of men, and all minor discoveries were lost sight of or completely extinguished in the splendour of these. There was a general rush to the Indies, first eastwards, afterwards to the west; and the current of popular enthusiasm continued long to run violently in the latter direction. Thus a general ardour, of which the world has never seen a second example, poured a flood of voluntary colonization into the new world, while the slender garrisons requisite for the maintenance of the Portuguese settlements on the coasts of Africa were re-



cruited with difficulty. But the inferior, and, as we may say, menial character of these settlements, was fully established when they began to owe their chief importance to the number of slaves which they annually supplied to the infant communities in the west. As their slave-trade increased, the African colonies of the Portuguese lost the respect and attachment of the natives. Studiously scattering disunion, and loosing the feeble bands which held African society together, they caused it to relapse into barbarism. They diffused a moral poison around them, and in so doing dried up the true sources of their own prosperity.

We shall not enter into a lengthened comparison of the Portuguese settlements on the eastern and western coasts of Africa with those on the shores of the New World, which received the largest influx of adventurers. We believe that on the coast of Africa, near the equator, the luxuriance of nature is exhibited on a scale much more easily comprehensible than in America. In Sofala, on the banks of the Zambézi, and in some parts of Angola, the soil possesses inexhaustible fertility. The country behind Sofala was famous for its gold, that great exciter of mankind; and, in short, we find that intertropical Africa was described by those who first visited it in terms fully as rapturous and glowing as were ever applied to the scenery of South America. Why then did so many thousands crowd to the shores of the New World while those of Africa were wholly neglected? The chief cause unquestionably was that popular enthusiasm, hurrying to the furthest east or remotest west, was unable to stop short of its proposed goal. At a time when every adventurer dreamt only of conquering kingdoms, and industrious plantations were never thought of, there was nothing to be effected by solitary efforts; and every movement took the direction of the popular delusion. Had the shores of Africa chanced at that time to rise into vogue, and to attract annually some hundreds of armed desperadoes, led by the needy offshoots of European chivalry, we believe that no obstacle, physical or moral, would have been found to resist their progress; and that in thirty or forty years, an ardour like that which first led the Spaniards across the Andes, and launched Orellana on the river of Amazons, would have completely explored, in a general way, the interior of the African continent. But that enthusiasm is now passed away, and we can with difficulty form an idea of the strong impulse necessary at first to support the courage of men in the poisonous plains of Vera Cruz, or the endless forests of Paraguay. On the other hand, the interior of Africa remains undiscovered; and we, forgetting what man can do and has done, indolently conclude that it is undiscoverable.

Accident and circumstances extraneous to the nature of Africa turned aside from that continent, in the sixteenth century, the tide of European enterprise. Some causes, perhaps, operated permanently to diminish curiosity respecting it; and among these we are disposed to reckon a blind respect for the authority of the ancients. When the Portuguese had penetrated to the remotest parts of Abyssinia, they could not fail to perceive that they had not yet discovered the fountains of the Nile as described by Ptolemy. On the eastern coast of Africa they received accounts of a great lake in the interior, from which issued many rivers. On the western coast again this statement was confirmed. They concluded, therefore, that the great lake, so well known on both sides of the continent, was the eastern source of the Nile indicated by Ptolemy; and accordingly they felt no hesitation in uniting their discoveries along the coast,—considerably exaggerated in inland extent,—to the geographical data of Ptolemy; which occupied the middle of the map. The consequence was, that the map of Africa, in the sixteenth century, was completely filled up, while its chief errors appeared to rest on incontrovertible authority. All the great rivers of the continent were made to flow from Lake Zambre, as the inland sea was called. The empires of Abyssinia, Monomotapa, and Congo all met together; and no blank space was left of sufficient magnitude to awaken curiosity.

The Jesuit missionaries in Abyssinia, who were many of them well-informed men, were yet so little aware of the great extent of the unknown interior, as to state seriously and in good faith, that the salt conveyed across the western frontier of Abyssinia, was carried to Timbuctú and the country of the Jaloffs.

In the middle of the seventeenth century, one of the missionaries in Congo (P. Bonaventura d'Alessano) had made up his mind to travel through the interior from that country to Abyssinia, but died of fever before the permission of his superiors arrived from Rome. One of the most curious illustrations, however, with which we are acquainted, of the erroneous opinions of that age respecting the interior of Africa, is furnished by the draught of a letter from James I. to the Emperor of Abyssinia, preserved among the Cotton MSS. in the British Museum; and which, from its style and spirit, we should suppose to have been dictated by the learned monarch himself. A principal object of it seems to have been to recommend to the Emperor a certain Robert Junius; probably the same who resided ten years in the Isle of Formosa in the beginning of the seventeenth century, teaching his heresies to the natives, as the Jesuits express it. He was one of the most successful, as well as earliest of the

Protestant missionaries in the east, a circumstance sufficient to ensure him the regard of King James; and it is not unlikely that on his return from Formosa the plan was entertained of sending him to resume his labours in Abyssinia. The letter begins in an inflated manner, declaring that some secret impulse urged the King to send a messenger to his Abyssinian Majesty, 'from the very bounds of the ocean to the fountains of the Nile, from the far north to the distant south, from Britain to Ethiopia,' &c. After a long and complimentary exordium, the King at last proceeds, in a business-like strain, requesting 'that his subjects may be allowed to visit every part and province of the Abyssinian empire, to sojourn, deal, buy, sell, and exercise every lawful profession therein, so that after having, by frequent voyages to Turkey, Persia, China, and both Indies, united the east to the west in close commercial intercourse, they may also, leaving nothing unattempted, join in like manner the north and south.' He then begs to know what merchandise is best suited to the Ethiopian market, offering swords, guns, cloth of the best quality, and hard wares of all kinds. He particularly desires also that Robert Junius may be allowed to examine the great library 'on the Mountain Amhara,' and to make a catalogue of the books, and especially of the works of the early Fathers of the Church.\* But the following is the most characteristic passage: 'Since,' observes the King, 'we cannot trade with you by land, on account of the difficulty of the journey, the great extent of the Desert, the distance between the towns, &c., explain to us amply in your reply what is best to be done, and how we can most safely reach you with our ships, whether from the west, by the river Zaire, in Manicongo; or from the east, by Quiloa and Mozambique.' Thus it is evident that in the earlier part of the seventeenth century, European nations were much less sensible of their ignorance of Africa than they are at the present day.

Timbuctú long continued an object of anxious curiosity on account of its reputed trade in gold. Its commerce, however, declined, as that on the coast of Guinea increased; and, in the eyes of Europeans, its relative sunk even faster than its real importance, from the great development of the commerce with India and the New World. Yet, from that seeming undulation in the progress of human ideas, which brings back at regular inter-

\* Respecting this fabulous library, it is necessary to remark, that it was said to be composed of volumes saved from the libraries of Jerusalem, Alexandria, Constantinople, and Antioch!

vals exploded opinions, Timbuctú again rose into consideration ; and for many years back the efforts of Europeans (chiefly of the British) in the exploration of Central Africa, have been almost wholly directed to two objects, namely, Timbuctú and the Nigir. The exertions thus made to solve questions in some measure of a speculative nature, as they commenced by confronting the greatest difficulties, were attended of course with much disappointment. They had the same injurious effect on the zeal of geographers which the squaring of the circle and trisection of the angle have had on the industry of mathematicians ; yet perseverance, even on a bad system, is never wholly unsuccessful :—Denham and Clapperton, crossing the desert from Tripoli, reached Bornú, in Negroland. They appear to have been very unskilful observers, and there is reason to suspect that the countries visited by them have been placed in our maps, on their authority, at least one degree too far eastward.

Clapperton obtained such information from the intelligent Fellatah Sultan at Sockatoo, as convinced him that the Great River of the interior (the Quorra) descended towards the sea in the Bight of Benin. In his second expedition, therefore, he proceeded from Badagry, on the slave coast, north-eastwards—crossed the Quorra near Boussa (where Mungo Park had perished, after descending the stream from Sego)—and arrived at Sockatoo, where he soon after died. His enquiries, however, and those of his servant Lander, left no doubt as to the course of the river. Accordingly, Lander, having acquired a considerable knowledge of the country, was sent back to make the conclusive experiment, and embarking on the Quorra at Boussa, he descended the river in safety, and, after a variety of adventures, reached the sea by the Nun branch.

‘ It will excite no surprise,’ says Mr Laird, in the narrative of his expedition, ‘ that the splendid discovery of Lander was hailed with, if possible, more enthusiasm by mercantile than by scientific men. The long sought for highway into Central Africa was at length found, as open by the Niger as that by the Rhine, the Danube, the Mississippi, or the Oronooko is into their respective countries. To the merchant it offered a boundless field for enterprise ; to the manufacturer an extensive market for his goods ; and to the energy and ardour of youth, it presented the irresistible charms of novelty, danger, and adventure.’—(Vol. i., p. 2.)

After enumerating the motives of a humane and religious nature, which may be supposed to have actuated the promoters of an expedition up the Quorra, Mr Laird thus proceeds :

‘ Urged by such considerations, the author, in conjunction with several other gentlemen of Liverpool, determined to form a company, whose first object should be to open a direct communication with the interior

of Africa ; and if this were successful, to establish a permanent settlement at the junction of the Tchadda and Niger, for the purpose of collecting the various products of the country.'—(Vol. i., p. 4.)

Mr Lauder being consulted, readily consented to embark in the enterprise, and confirmed the most sanguine expectations of the company by the assurance that ivory, indigo, and other valuable produce, could be collected up the country in any quantity at a trifling expense. It was resolved accordingly to fit out two steam-vessels, of light draught of water, to ascend the river, whilst a sailing vessel waited at its mouth to receive the cargoes. The larger steam-vessel, the *Quorra*, had a length of a hundred and twelve feet, with an engine of forty horse-power. The smaller one, named *thé Alburkah* (more correctly *Albarakah*, an Arabic, and not, as Mr Laird supposes, a Houssa word, signifying the *Blessing*, or the *Goodluck*), was only seventy feet long, with an engine of sixteen horse-power, and formed the test of a very bold and interesting experiment ; being, with the exception of her decks, wholly constructed of wrought iron.

'That such a vessel,' says Mr Laird, 'would be invaluable in river navigation, we were quite aware ; but whether she could withstand the wear and tear of a sea voyage of four thousand miles, was at best problematical. The result has added another to many proofs, that a theory fairly grounded on scientific principles may safely be brought into practice even against the advice and opinions of those who are generally supposed to be the most able to give the one or to form the other. Never were men more ridiculed than the gentlemen of the company when fitting out this vessel for her voyage to Africa. It was gravely asserted that the working in a sea-way would shake the rivets out of the iron of which she was composed ; the heat of a tropical sun would bake alive her unhappy crew as if they were in an oven ; and the first tornado she might encounter, would hurl its lightnings upon a conductor evidently sent forth to brave its power. But what was the actual result ? In spite of these wise opinions her rivets are yet firm in their places, as the fact of her not having made a cupful of water sufficiently proves. Being in herself a universal conductor, she was always at the same temperature as the water in which she floated ; and, for the same reason, though the lightning might play round her sides, it could never get on board of her.'—(Vol. i., p. 6.)

The expedition, consisting of the two steam-vessels and the *Columbine*, a brig of two hundred tons, departed from Liverpool on the 19th July, 1832. It had been previously joined by Lieutenant W. Allen, R.N., for whom the Admiralty had requested a passage in one of the vessels, for the purpose of surveying the river. There are few British merchants, we believe, who would have refused a request so moderate in itself, and made with a view so conducive to public advantage ; and we confess ourselves unable to

comprehend why Mr Laird should claim for the company, who granted it on condition that Lieutenant Allen should not divulge the results of the voyage without their express permission, the praise of peculiar liberality. It might be conjectured, from the passage in Mr Laird's narrative to which we allude, that the generosity of the company consisted not in exemption from, but in the successful suppression of petty grudges, and of the mortification of patronage withheld. Before leaving port, the crew of the Quorra were assembled on deck; they were all picked men; 'and little did I think,' observes Mr Laird, 'as I beheld their athletic and powerful frames, that in a few months the only survivors of us all would be myself and three others.'

Though the events of the voyage out do not properly lie within our scope, yet we cannot refuse ourselves the pleasure of glancing at a few of the more prominent objects on the way to Benin. The bad sailing qualities of the Quorra soon became manifest; and, together with the dangers of keeping near the shore for the sake of procuring fuel, were the sources of perpetual annoyance. But troubles such as these stimulate rather than subdue the spirits of men. A few years back, a small vessel, of twenty tons burden, was navigated from London to the Cape of Good Hope by two men and a boy. At Praya, in the Cape Verd Islands, Mr Laird found a small American schooner, with a crew of only two men and two boys, and was struck with their boldness in crossing the Atlantic Ocean in so frail a vessel. The islands were afflicted with famine, in consequence of want of rain; and the American captain, alive to the advantages of such a state of things, was going 'slick home' for a cargo of Indian corn, which 'he calculated would pay considerable if the starvation progressed.'

Mr Laird bears testimony to the merits of the Kroomen, a remarkable race, occupying the coasts near Cape Palmas, and much employed at present by the British shipping on the Guinea coasts. Their country being poor, they seek employment at Sierra Leone as woodmen or seamen, and, as they save money, vest it in wives in their own country, until at last, a sufficient conjugal estate being accumulated, they retire to the bosom of it, and live in idleness.

Of the American colony of Liberia, near Cape Mesurado, established by the Americans for free blacks, our author speaks in terms, we think, of rather too vehement condemnation. In his opinion, the colony was founded, not from humane intentions towards the blacks, but merely for the sake of relieving the United States from the dangers of a redundant slave population. He avers that the free negroes in America were first

made wretched by oppression, and then told that Liberia was a terrestrial paradise. An intelligent mulatto complained to him that he had been inveigled away under false pretences. Now, Mr Laird ought to have known, whilst he was thus imputing the foulest motives to plans of manifest benevolence, that the great majority of colonists, during the probationary years of new settlements, are of opinion, that they have been lamentably duped by themselves or others. Organized society has many advantages which the most prolific nature cannot at once supply or compensate; and if, as Mr Laird affirms, the site of Monrovia be ill chosen, and the colony ill situated, is not this an instance of a mistake of very natural and frequent occurrence, and which ought not to be lightly ascribed to sinister intentions? No benevolent foresight on the part of the founders of the colony could have saved free negroes from the inconveniences to which white men would have been liable under the same circumstances; and the former were less able to struggle resolutely with difficulties, inasmuch as embittered feelings rendered them unable to form a candid estimate of their situation, and to make themselves responsible for their own success.

The free negroes in Liberia are, we dare say, much less tormented by the natural disadvantages of their new home, than by the sentiments which they have brought with them from the opposite shores of the Atlantic. Conventional opinions, though well suited to the place where they have first grown up, often turn out mere weeds when transplanted. What would the free citizens of Liberia say to their swarthy brethren at Cape Coast Castle as they figure in the following passage?

'On the day after our arrival, the Governor treated me to a drive in his light carriage. When the reader is informed that he drove four-in-hand, he must not imagine that horses are here meant. The Governor's carriage of Cape Coast Castle was drawn by four negroes, natives of the soil, who tramped along right merrily, at the rate of five miles per hour. At first I was somewhat shocked at what seemed to me a little stretch of power; but discovered, that the honour of being put into harness in the Governor's carriage was eagerly sought for by the natives, and that those who were selected for the service were objects of envy among their countrymen.'—(Vol. i. p. 49.)

On the 16th October, after a tedious and struggling voyage of three months, the Quorra steam-vessel arrived at the mouth of the river Nun, and was soon after joined by the other two vessels. Here, where the expedition might be properly said to begin, the first occurrences were all calculated to give rise to the gloomiest forebodings. The captain and the engineer of the Quorra, who had been taken ill at Cape Coast Castle, both died soon after they entered the river Nun. Sickness, with like

symptoms, manifested itself on board of the Alburkah. The Susan, a Liverpool brig, lying in the river, offered a melancholy example of the effects of a noxious climate. She had been lying there four months, ready for sea, but unable to proceed, the majority of her crew having died, and the survivors being too sickly and debilitated to work the vessel. 'It was remarkable,' says Mr Laird, 'that I had entered the river on my natal day; whether to think it a good or a bad omen, I knew not, but I found myself speculating now and then on where my next might be passed.'

On the 26th, the steam-vessels commenced the ascent of the river. In some places, avoiding the shoals of the main channel of the Nun, they made their way up lateral branches, not above thirty yards wide, and not without constant fears of being betrayed by their pilot. The country on both sides appeared to be an extensive swamp, covered with mangrove, cabbage, and palm-trees. No land, nor even mud, was seen for the first thirty miles, the mangroves alone marking the channel.

'The natives of this part of the river,' says Mr Laird, 'appeared to be very unhealthy. They were covered with scabs, ulcers, and Guinea-worms, and all kinds of cutaneous eruptions, which I was inclined to ascribe to their mode of living. They sleep generally in the open air; they drink vast quantities of spirits, of the very worst description; and their principal diet consists of various kinds of fish, from the alligator to ground sharks. The whole country seemed deluged with water, and the miserable wretches that dwell in it are dependent on the Eboe country for their subsistence; all their yams, bananas, plantains, and cassada are derived from thence.'—(Vol. i. p. 74.)

The river continually grew wider the higher it was ascended. The splendid African oak also, and wild cotton trees, began to appear on the banks. Hitherto the scanty population near the river had shown a pacific disposition; but, on the evening of the 1st November, Mr Laird received a note from Mr Lander, who was a short distance a-head in the Alburkah, informing him that the Eboes, inhabiting the village which they were approaching, had threatened to attack the vessels, and advising him to be on his guard. The hint was enough; the fire-arms on board the Quorra were immediately loaded; but Mr Laird himself must relate what followed.

'While we were thus employed (in arranging the fire-arms) we heard the report of several shots, and, on going on deck, observed the whole bush on our left, which was the right bank of the river, and about seventy yards from us, in a blaze of musketry, which the Alburkah was returning. Mr Lander hailed me, and said he was going to drop down the river; but, on my offering to go between him and the fire, he sent



Louis, the Eboe pilot, on board. We immediately got under weigh, and the pilot faced the Quorra within pistol shot abreast of the town. I was much amused by the coolness and self-possession of this pilot. He could speak tolerable English; so I told him, if he ran us aground, the instant the vessel touched I would blow his brains out. The fellow laughed, and, opening his country-cloth, showed me the but-ends of two pistols; a gentle hint that two could play at that game. I gave directions for the guns to be loaded with round and canister, and in about twenty minutes we silenced the firing on shore.—(Vol. i. p. 83.)

The next morning hostilities were resumed, and the Quorra opened her fire with four four-pounders, and a twenty-four-pound swivel. But that was not enough; it was resolved to land and burn the town. Mr Laird, as he himself tells us, led the way. The landing was effected on a bank of mud, six feet high, 'the natives annoying us,' says our author, 'with musketry all the time, although they did no harm.' The roofs of the houses were set fire to, and the men regained their boats. The victory, it seems, was achieved solely by Mr Laird.

'The Alburkah's boat, with Mr Lander, had been detained, and having a strong current to pull against, did not join in the attack, but came up immediately afterwards.'

Mr Lander, according to our author's account, though slow to enter, was in a great hurry to leave the field of action.

'I had returned to the Quorra,' says Mr Laird, 'when I perceived one of the Alburkah's men standing under the bank in a narrow edge of mud. In the hurry of re-embarking he had been left ashore. I pulled back in the gig and took him off, but we had a narrow escape,' &c.—(P. 85.)

They had a narrow escape, it appears, the natives firing on them from a distance of only a few paces; yet, strange to say, not a man of the boats' crew was hurt, though they had been much 'annoyed' by the firing of the natives. Of the latter, three were said to have been killed, and four badly wounded. But this statement Mr Laird affects to disbelieve, and having told us that this unfortunate affair originated in a mistake, and was much to be regretted, he adds, 'I am in great hopes the expenditure was confined to powder alone.' We can hardly conceive how such a hope could have been entertained by the individual who burned the town, and fired round and canister-shot on its inhabitants. There was obviously a great expenditure of heroism to little purpose; and all will admit that, independent of the misconception in which the hostilities originated, it was a flimsy resource to such violent measures, without any real or apparent necessity for them.

In a day or two after this affair, the steam-vessels reached

Eboe, about a hundred and fifty miles up the river, near the head of the Delta, and the first place of importance met with in ascending from the sea. It was Obie, the king of this place, who had detained the Messrs Lander when descending the river for the first time, and sold them to King Boy, who dwells near the sea. It was deemed expedient to make show of some importance before this man-selling potentate. The gentlemen of the expedition accordingly arrayed themselves in all the finery they could muster. The Kroomen were dressed in kilts and velvet caps. Away marched the procession, beating drums and blowing trumpets, 'more like merry-Andrews than sensible people,' through a dense mob of Africans, the heat and stench of which was hardly supportable. On entering the royal residence they were conducted to a small court, in which was Obie's throne covered with a grass mat of very elegant manufacture.

'After waiting about ten minutes,' says Mr Laird, 'a side-door opened and in rushed Obie, a tall man with a pleasing countenance, dressed in scarlet cloth. He wore a cap made of pipe-coral on his head, much the same shape as the fool's cap of our schools; and thirty or forty chains of very large pieces of coral were passed round his neck and loins. He had also a great number of armlets and leglets of the same material; indeed, I should say, he had very nearly one hundred pounds value of coral on him. Poor Jordan was the first he saw, and rushing upon him at once, he gave him a most fraternal hug; then shaking hands with Lander and myself, he took his seat on the throne, placing us on each side of him. The interview lasted about a quarter of an hour, and I was much struck with the gentlemanly and agreeable manner of Obie.'—P. 96.

This chief expressed much surprise when he found that the strangers were not going to trade with him for palm-oil, of which article he is a great collector. He appeared remarkably intelligent, and evinced the most lively attention to the wants and comforts of his guests. The capital of his dominions is thus described by Mr Laird:

'The town of Eboe stands by the side of a creek running parallel with the Niger, and in the flooded season communicating with it at both ends. On a rough estimate, the town consists of eight hundred to a thousand houses; and allowing on an average six people to a house, will give the amount of population, two-thirds at least of which may be considered as under fourteen years of age. The inhabitants are the most enterprising and industrious traders on the Niger. The town itself, with its immediate vicinity, is unhealthy, owing to the swampy nature of the ground. We found but few old people of either sex, and a great number of young men, who appeared debilitated and aged.

'The staple trade of Eboe consists of slaves and palm-oil. The sale of the former varies according to the demand on the coast. The

average value of a lad of sixteen may be taken at sixty shillings, and that of a woman at something more.

Palm-oil is produced in immense quantities about Eboe, and is collected in small gourds, each capable of containing from two to four gallons, from which it is emptied into trade puncheons. Some of these, belonging to vessels in the Bonny, I saw in canoes at Eboe; but, generally, the gourds are taken in large canoes to a market-place on the Bonny branch of the Niger, which branch being dry in the dry season, the Eboe oil there finds its way through the Brass creek to the Bonny.—(Vol. i. p. 102.)

Eboe is situated a little way below the head of the Delta, or the place whence the Bonny and Benin arms branch off to the sea. The Delta of the Quorra, or of the Niger, as Mr Laird styles it, extends up from the sea about a hundred and sixty miles, and along the coast stretches from Lagos on the west, to Calebar on the east. Through this Delta the Quorra discharges itself into the ocean by twenty-two mouths, the principal of which are the Benin, Warree, Nun, Bonny, and Old Calebar. It is rumoured, also, that a branch called Cross River stretches eastward to New Calebar. Of all these branches, the Nun alone has been as yet fully explored. Near Eboe it is 1000 or 1200 yards wide; lower down, near the sea, its width diminishes in some places, as we have seen, to thirty yards. An immense number of branches intersect the Delta in all directions, those running eastward from the Nun being in general very small, so as to be navigable only in canoes. The low country within the influence of the salt water is covered with mangroves, and higher up, by a dense jungle, in which the palm species is conspicuous. The scanty population of this low region is confined merely to the firm mud banks of the larger rivers. All the villages on the Nun from Eboe to the sea, according to Mr Laird, do not contain above four thousand adult inhabitants. The women and children are employed in collecting palm-oil; the men kidnap their neighbours, and devote their leisure hours to drinking rum and brandy of the worst description.

Above the Delta the river was nearly a mile wide, but full of shoals, and the Quorra soon grounded. The country around gradually assumed a more healthy and cheerful appearance; but, alas! the salubrious air, if such it may be called, was reached too late. The men preserved their health and spirits while inhaling the poisonous exhalations of the swamps, but sunk under its influence soon after they had got beyond its limits. On the 11th ~~of~~ <sup>of</sup> ~~the~~ <sup>the</sup> ~~month~~ <sup>month</sup>, two days after leaving Eboe, the fever made its appearance on board of both the vessels. In the Quorra, which was the healthier of the two, four men fell sick at once; on the following day, Mr Laird, Dr Briggs, and nine more of the crew,

were attacked with the same symptoms. Nothing can be more melancholy than this portion of our author's narrative, which becomes indeed a mere obituary. When, at the end of three weeks, he was able to resume his journal, he found that the Quorra had lost fourteen, and the Alburkah three men. The survivors, with the exception of Lander, who preserved his health, looked like spectres, and were scarcely able to crawl. The Quorra, destitute of hands to work her, was taken in tow by the Alburkah, and in this manner they reached Attah, or Iddah, as the place is subsequently called by Mr Oldfield. The view from this station was cheering to the invalids. It is thus described by Mr Laird :

'The town of Attah, off which we had anchored, presented a most picturesque appearance. It is seated on the summit of a hill, the perpendicular side of which rises immediately from the river to the height of about 250 or 300 feet. The King of Attah has the reputation of being the most powerful between the sea and Fundah, and carries on a considerable trade in slaves and ivory. We found two men there from King Peppel of Bonny, buying slaves for their master; the price was as low as five dollars, or goods of that value, for a prime slave.

'Mr Lander, accompanied by Captain Hill, went on shore several times, and described the view from the town as most splendid. The Kong mountains are seen in the distance stretching from west-north-west to south-east, and from their tabular appearance, I apprehend, would prove to be of the trap formation. The hill on which Attah stands appears to be some conglomerate, and forms the extremity of a low range of hills which constitutes the eastern boundary of the river. The appearance of the western bank is strikingly beautiful, and I anticipated much benefit to all the survivors by the change from the low and monotonous scenery. Attah is healthy, and the only place we have yet seen on the river where a European could possibly exist for any length of time. It has many natural advantages, and on some future day will be a place of great importance. Situated as it is above the alluvial soil, and at the entrance to the valley of the Niger, it commands at present the whole trade of the interior; which trade, although trifling at present, it requires no prophet to foresee will at some time hereafter be immense. The inhabitants of Attah are enterprising traders, and monopolize, in a great measure, the trade above the town. Notwithstanding this, we had been lying at our anchorage ten days, and could see no prospect of opening any trade with them, not from indisposition towards us on the part of the natives, but from their dilatory habits, time being of no importance to them.

We cannot refrain from offering to our readers the following lively description of the killing of a huge alligator, witnessed from the anchorage at Attah. —

One day while we lay at anchor off the town, I witnessed one of the

most ingenious ways of killing an alligator that could be imagined. One of these huge creatures was discovered basking on a bank in the river, a short distance ahead of our vessels. He was observed by two natives in a canoe, who immediately paddled to the opposite side of the bank, and having landed, crept cautiously towards him. As soon as they were near the animal, one of the natives stood up from his crouching position, holding a spear about six feet long, which with one blow he struck through the animal's tail into the sand. A most strenuous contest immediately ensued—the man with the spear holding it in the sand as firmly as his strength allowed him, and clinging to it as it became necessary to shift his position with the agility of a monkey—while his companion occasionally ran in as opportunity offered, and with much dexterity gave the animal a thrust with his long knife, retreating at the same moment from within reach of its capacious jaws as it whirled round upon the extraordinary pivot which his companion had so successfully placed in its tail. The battle lasted about half an hour, terminating in the slaughter of the alligator, and the triumph of his conquerors, who were not long in cutting him into pieces and loading their canoes with his flesh, which they immediately carried to the shore and retailed to their countrymen. It is evident that the success of this plan depended on the nerve and dexterity of the man who pinned the animal's tail to the ground, and his contortions and struggles to keep his position were highly ridiculous and entertaining.—P. 126.

About thirty miles above Attah commences the gorge, or narrow valley, by which the river, reduced to a breadth of 700 yards, forces its way through the mountains. These are what Mr Laird calls the Kong mountains; but he does not inform us where he found that name; whether he learned it from the natives, or mistakingly borrowed it, as we conjecture to have been the case, from systematic geography. That the range of mountains which crosses the river Quorra is a continuation of the Kong mountains in the Mandingo country 1000 miles further west, is not an inference of that degree of likelihood, which can justify us in quietly assuming it as a fact. Still less likely is it that the natives are aware, or ever thought of such a continuity of mountain chains, or that they apply one general name to them throughout their whole extent. The mountains which confine the valley of the Quorra, immediately above Bocqua or Iccory (a village remarkable for the great fair or market which is held on a sand-bank near it), have an elevation apparently of from two to three thousand feet. They are all table-shaped, and from a distance their flat summits appear to be all of equal height, and to range in the same horizontal line. The large fragments of rock which lay in the river and obstructed its navigation were granite. The tabular heights were probably composed of sandstone, resting on granitic rocks. The navigation of this part of the river was intricate, owing to its numerous eddies and rocky islets; but these

difficulties being overcome, the labour they had cost was amply repaid by the view that presented itself.

'In the morning,' says Mr Laird, 'we were again under weigh, and a few minutes afterwards entered one of the noblest reaches that imagination could have conceived. An immense river, about three thousand yards wide, extending as far as the eye could reach, lay before us, flowing majestically between its banks, which rose gradually to a considerable height, and were studded with clumps of trees and brushwood, giving them the appearance of a gentleman's park; while the smoke rising from different towns on its banks, and the number of canoes floating on its bosom, gave it an aspect of security and peace far beyond any African scene I had yet witnessed. The confluence of the Shary was just in sight, and a range of low hills on the northern bank trended east-north-east; while on the western bank of the Niger were two remarkable isolated table-lands of a romantic and beautiful appearance, giving a finish to a picture to which no description can do adequate justice.'—P. 138.

It was on the 22d of December that the expedition arrived at the mouth of the Shary, where the Quorra steam-vessel ran aground, and being surrounded by shoals, could not be extricated, but remained fixed for nearly four months, till the rising of the river. The Alburkah was anchored about two leagues higher up. In spite of the fineness of the surrounding scene this fixedness of position was extremely mortifying and irksome. The vessels were covered over in expectation of the approaching rains; but the tediousness of delay, and the pain of disappointment, for there was no trade with the natives, and the speculation had hitherto proved a complete failure, anticipated the sickly season, and the fever broke out anew. Fortunately the pacific character of the natives rendered this visitation less calamitous than it might otherwise have been. A part of the stores and cargo was sent on shore in order to lighten the Quorra, and remained there a considerable time without incurring either loss or molestation. Lander, who alone remained in good health, made preparations to ascend the river Quorra to Rabba or Boussa, having still sanguine hopes of finding somewhere a lucrative trade. His departure was much desired by Mr Laird on another account; namely, that he was too credulous of idle rumours, and too suspicious of sinister designs, and consequently ever on the point of quarrelling with the natives. He did not, however, proceed; the captain of the Alburkah having reported, after sounding the river, that it was so shallow that it might be waded across. Of this statement Mr Laird broadly impeaches the veracity,—perhaps on good grounds; but undoubtedly the harshness of his statement is much more apparent than its justice.

The banks of the Quorra, near its confluence with the Shary, were thickly covered with towns and villages : seven of these were visible from the anchorage of the large vessel. Mr Laird supposes that between Eboe and the mouth of the Shary there cannot be less than forty villages, having each on an average one thousand inhabitants. On this part of the river also the people are superior in character to those of the lower country. They are intelligent, peaceable, and industrious, and cultivate the soil, or manufacture to a sufficient extent\*to maintain a lively commerce.

‘ The river,’ observes Mr Laird, ‘ abounds in fish to a degree that is almost inconceivable, and the inhabitants of the banks are expert and persevering fishermen. They make immense nets of grass, which they use as seines with great dexterity. They are very careful of their nets after using them, and stretch them on poles to be dried by the sun, exactly as our fishermen do. The fish are split by them and gutted ; they are then dried by the smoke of a wood fire, and form, with farinaceous food, their principal means of subsistence. Fruits are not plentiful on the banks of the river ; plaintains, bananas, limes, tamarinds, a species of plum and pine-apples, constitute the whole.

‘ The intercourse and trade between the towns on the banks is very great (I was surprised to learn from Dr Briggs that there appeared to be twice as much traffic going forward here as on the upper parts of the Rhine) ; the whole population on the Niger being eminently of a commercial character—men, women, and children carrying on trade. The traffic in slaves, cloth, and ivory, is confined to the men ; every thing else being left to the other sex, who, to say the truth, are far the most difficult to deal with.

‘ Bocqua, or Hickory, as the natives call it, is the centre of this traffic ; and a fair of three days’ duration is held there every ten days, attended by Eboe and Attah, and even Bonny traders from the south, and those from Egga, Cuttum-Curaffee, and Fundah, on the north, besides great numbers from the interior country on both banks of the river. The traders from the upper country bring cloths of native manufacture—beads, ivory, rice, straw-hats, and slaves, all of which they sell for cowries, and buy European goods, chiefly Portuguese and Spanish. About twenty-five large canoes passed us every ten days, on their way to this market, each containing from forty to sixty people. The trade is carried on by money, not by barter ; cowries are the circulating medium, and their sterling value on an average may be taken at one shilling per thousand.’—(Vol. i. p. 165-6.)

The time passed heavily while the vessels lay at anchor near the Shary, the one aground, the other afloat, but hindered from proceeding onward by the shoals. The monotony of existence was never interrupted unless when a momentary and melancholy excitement was caused by some fresh attack of sickness, or the

death of a companion. On the 28th of February expired Dr Briggs, the medical officer of the Quorra, and a gentleman of great ability. The loss of his friend and companion weighed heavily on Mr Laird; and though weak and ailing, he resolved to seek relief from the pressure of this last affliction, in enterprise and change of scene. He proceeded accordingly about the end of March to ascend the river Shary on his way to the town of Fundah.

In the course of this journey he encountered a sufficient variety of perils and inconveniences to compensate the languid uniformity of his life on shipboard. At the village of Yemmamah he was jolted on the shoulders of the natives over paths which seemed scarcely to admit the tread of human feet. When ascending the creek which leads towards Fundah, his native boatmen left him to spend the night alone in the canoe, unsheltered and unprotected. He was unable to ride on horseback, and the natives refused to carry him, alleging that they were men, not horses.

It was midnight when he reached Fundah, where an immense concourse awaited his arrival, and the hut in which he was lodged continued till morning closely beset by the inquisitive multitude. We shall introduce the sovereign of Fundah in Mr Laird's own words.

‘In the afternoon I was visited by the king, who was attended by a great number of eunuchs, and a cavalcade of about a dozen horsemen. He was splendidly dressed in silk and velvet robes, and appeared to be a man of immense size. His countenance is by no means prepossessing, particularly his eyes, which are of a dirty red colour, having a sinister and foreboding expression. I presented him with a brass-mounted sword, an umbrella five feet in diameter, highly ornamented, a brace of pistols, and several other things, and then informed him, through my interpreter, that I had come from a great distance to look at him in the face, and to hold a good palaver with him; that his messengers had informed me it was his desire to see the face of a white man, and trusting to his good faith, I had come though ill and unable to walk; that I was anxious to give him our goods for ivory, and had brought with me a great quantity for that purpose.

‘Having finished my speech, he rose, and said, in the Houssa language, that he was glad to see the face of a white man—it was what he had long wished for; that he had abundance of ivory, and that all that he had was mine: to which sentiments twelve grey-headed negroes, who appeared to form his privy council, bowed assent.’—P. 200.

In the evening after this interview, Mr Laird was visited by a raw-boned, active-looking man, whose face he thought he had seen before. The unknown visitor growing importunate, was turned out of the hut by the Kroomen. The next day Mr



Laird went to return the king's visit, and was waiting in the court-yard of the royal residence, when the sturdy beggar of the preceding evening came and sat beside him. An explanation took place, from which it appeared that the raw-boned man was no other than the king himself, divested of his wadding and his finery. He withdrew for a few minutes, and then returned dressed as at the first interview, and stuffed up to royal dimensions.

Mr Laird, we have seen, was an invalid when he set out on his journey to Fundah. Besides his general debility, he was afflicted with *craw-craw*, a foul cutaneous disease, which degenerated into ulcers. It is no wonder, therefore, that he was treated with little respect by a rude people; for the multitude are always disposed to estimate a man according to his physical qualities; and, moreover, they found amusement, as he himself acknowledges, in his irritability. It was a bold thought of Mr Laird to venture in so weak a state so far from his companions, and with a large quantity of goods. We admire his courage, and only regret that it was not accompanied with a more resigned temper; so that, when the speculation failed, he might have known how far the failure was ascribable to his own miscalculations. The King of Fundah used no violence towards him; he may, perhaps, have defrauded him of goods, or been slow to afford him the means of quitting the place; but these matters are rather obscurely stated by Mr Laird, whose invectives, on the other hand, have a degree of acerbity which diminishes one's credence in them. He says of the king in one place—'He never took any thing which I refused him, though he would threaten and bluster about it. My goods were quite at their mercy,' &c.—P. 238. Yet again he exclaims, 'I cannot describe the disgust I had of this man's presence; and if he had persevered in his behaviour, I should certainly have shot him in some moment of irritation, as he stood before me.'—(Vol. i. p. 209.)

Allusions of this kind to the summary decisions of the pistol appear too frequently in our author's narrative: being insupportable in a civilized, we can hardly suppose them to be safe in an uncivilized country. The king, however, still continuing to refuse horses for our author's departure, a notable expedient was hit upon to overawe him. The white man made a grand Fetish at nightfall, in presence of the king and his assembled people. First, several rockets were discharged, then blue-lights were burned, and lastly, the pocket compass, pointing invariably to the north, was shown to the king; and whether from the effect of general dismay or admiration we know not, but the

desired point was gained, and Mr Laird was allowed to depart. He reached his vessel after a two months' absence, and found that Mr Lander, who had promised to follow him to Fundah, had changed his mind, and gone down the river to the sea.

Fundah, said to be the largest town in the country in which it is situated, appeared to Mr Laird to contain a population of thirty or forty thousand souls. It stands in a fine plain about twelve geographical miles from the river Shary on its northern side, and about forty miles from its mouth. Some of the defences of the town appeared to Mr Laird to be remnants of a civilisation superior to that of the present inhabitants. The principal street, in which there is a market every Friday, is a mile long, and 200 feet wide. The other streets are, for the most part, narrow and dirty. The king's dwelling is an assemblage of huts, covering an area of nine or ten acres, and surrounded with a wall fifteen feet high.

The industry of Fundah is confined to the manufacture of cotton cloths, of iron and copper utensils, and two extensive dye-works. Every one, even the king, spins cotton. The cloth is thick and strong, the coarse thread, made from cotton of exceedingly fine staple, being twisted hard. Its obvious superiority in durability and weight, over the Manchester cottons, was freely vaunted by the African manufacturers. The copper used in Fundah, chiefly in the manufacture of bowls for tobacco-pipes, is said to be brought from the eastward down the Shary. Fundah has at present but little commerce, but the traditions of the natives, it appears, concur in representing it to have been formerly a place of considerable trade,—‘a sort of entrepôt where the Arabs and Fellatahs exchanged European goods for slaves.’ It is certainly strong evidence of the importance of Fundah in the middle of the fifteenth century, that its name occurs in the map of the Venetian geographer, Fra Mauro.

Mr Laird commenced his descent of the river in the beginning of July; but before he had proceeded far, he met, on the 10th of the same month, a boat, in which were Mr Lander, Mr Oldfield, the medical officer of the Columbine, and Mr Brown, a native of Cape Coast Castle, who was to remain at some selected spot up the river in the capacity of agent or factor. After a delay of a few days, Mr Laird proceeded in the Quorra on his way home; while Mr Lander and his new companions, in the Alburkah, continued to ascend the river.

For the narrative of the expedition subsequent to the departure of Mr Laird, we are indebted to the journal of Mr Oldfield, which occupies the larger portion of the volumes before

ter, and which, from the extent to which he succeeded in exploring the rivers, ought also to have been the more interesting portion. But we regret to say, that Mr Oldfield's is much the weaker part. Not a better observer than Mr Laird, he is less generous and independent in his opinions; and, where the natives are concerned, more the slave of prejudice and misconception.

On the 2d of August the Alburkah entered the Tchadda; for so Mr Oldfield writes the name of the river, which Mr Laird uniformly calls the Shary. Neither of these travellers acquaints us with his reasons for adopting the one or other of these names, which stand here in more remarkable juxtaposition, inasmuch as they are likewise found conjoined in Borifú, where the great lake bearing the former name has a river flowing into it which bears the latter. It appears to us not unlikely that Chaddy (for so the Houssa people pronounce the name of the lake, as well as of the river) and Shary were originally one and the same name; modified by the geniuses of two different languages, one of which refuses the sound of *ch*, the other that of *r*. The rivers were now swelled by the rains, so as to be navigable without difficulty. On approaching the Tchadda, Mr Oldfield observes, 'We were now about to enter a stream which was (compared to speaking) totally unknown, and where no white man had penetrated.' He ought to have added, except Mr Laird. But this gentleman, it is true, had gone but a little way. 'Our intention,' continues Mr Oldfield, 'was, if practicable, to reach Lake Tchad from the Tchadda,'—a bold design truly, and considered practicable by the natives; but, if Mr Oldfield had considered their account attentively, he might have perceived that they invariably represent the river Quorra as flowing by its branch, the Tchadda, into the lake; whereas, in reality, the river Tchadda flows into the Quorra, and so demonstrates the ignorance of the natives.

For fourteen days our voyagers continued to ascend the river; but having by that time explored it 104 miles, without an adequate increase of information, they prudently determined to return. They suffered from lack of provisions, the natives along the banks refusing, for causes unexplained, to hold any intercourse with them. Mr Oldfield remarks, that 'it still remains to be determined whether or not the Lake of Tchad empties itself into the Tchadda or Shary.' He seems disposed to conclude, from the accounts of the natives, that it does. We have no doubt that he has misunderstood the natives, whose schemes of connexion between the waters of the interior always carry them from west to east. Besides, the following sensible

observations of Mr. Laird appear to us to be alone sufficient to decide the question.

‘The water of the Shary is colder than that of the Niger.

‘The rise of the river commences sooner, and more suddenly, than the Niger.

‘There is little trade upon the Shary, in comparison with the Niger, which, if it communicated with the sea of Soudan, would naturally be immense.

‘From the first two reasons, I should think that its rise is in a mountainous country, and that that country lies very near the equator. Probably the same range of hills that give birth to the Cameroons, Malimba, and other large rivers, throws off, on its opposite declivity, the sources of the Shary.—(P. 233.)

The Alburkah, once again on the river Quorra, turned her prow northwards, and proceeded to ascend the majestic stream. There was now no difficulty in the navigation, except what arose from deficiency of fuel; and a sufficient supply of this was easily levied on the curiosity of the natives. They came in crowds to see the vessels, but none were allowed to come on board who did not bring a certain quantity of wood; and their contributions were generally equal to the consumption. At Kacundah, on the western bank of the river, about fifty miles from the mouth of the Shary, industry and cultivation seemed to flourish, though temporarily depressed by incursions of the Fellatahs. Higher up, the population of the river's banks continually increased. On the 2d September, there were at one time upwards of thirty canoes paddling round the Alburkah, many of them above fifty feet long. Eleven large and populous towns were seen at no great distance from each other. Egga, about thirty miles farther up, contains, to use the language of Mr Oldfield, ‘an immense population.’ The scenery in this part of the voyage was extremely fine, the river frequently a mile and a half wide, winding gracefully through a diversified and luxuriant country.

But we must hasten to the town of Rabbah, about 150 miles N.W. from the mouth of the Shary, where our voyagers arrived on the 16th of September. Here they were within the dominion of the Fellatahs. Crowds of Fellatah horsemen awaited their arrival. ‘The walls of Rabbah,’ exclaims Mr Oldfield, ‘for the first time re-echoed with the sound of British cannon, and her people witnessed a novel sight in the arrival of a British steam-vessel constructed of iron.’ The next morning Mr Lander and his companions landed, and mounting the horses which the king had considerably sent for them, set off to court.

‘As we passed on,’ says Mr Oldfield, ‘we found the streets narrow

and excessively filthy; dunghills were seen in the most public thoroughfares. We passed through the wood-market, and another in which grass was sold; also the shambles, the slave-market, and the cloth market, all distinct from each other. To our left was the market for bullocks, where about one hundred fine beasts were exposed for sale. In various sheds were saddles, beads, sandals, robes; and other articles were offered to the view of purchasers. Indigo was likewise exhibited for sale, and baskets of senna.—(Vol. ii. p. 56.)

Mr Oldfield assures us, in his usual vague manner, that the population of Rabbah must be immense, and also that the town is of immense extent. Opposite to the town, which stands on the eastern bank of the river, is the island of Zagoshie, the chief seat of manufacturing industry in this part of Africa.

Our voyagers were kindly received by Ossiman (as our author writes the name Othman), the King or Sultan (or perhaps rather the governor) of Rabbah; a shrewd and apparently well-informed man, of dignified and easy manners. Some of his wives came and peeped at the strangers during the audience, and when perceived, scampered away laughing. The presence of some well-bearded Arab sages counterbalanced the frolic, and maintained the gravity of the meeting. The great population of Rabbah, the commercial character of its inhabitants, the number of Arab merchants collected there from different parts of the interior, and the friendly disposition of the chief men, all seemed to Mr Lander to hold out a promise of active traffic. But he required a promptitude in dealing unknown in Negroland, particularly when novelties are offered for sale, the value of which the African dealer has not proved by experience, and which he at the same time mistrusts and covets. The King of Rabbah was quick in taking goods, and slow in paying for them. He contracted a debt of 180,000 cowries (about nine pounds sterling), which he was willing to increase still further. A fortnight is a short space of time to a dilatory African, but was sufficient to exhaust the patience of Mr Lander. Tired of such unprofitable dealing, he determined on his departure. It had been his intention to ascend the river to Boussa, where a ledge of rocks interrupts its navigation upwards, but was obliged to renounce that design from a peculiarly mortifying cause: a scuffle had taken place on board, when the blows of the combatants fell on the cylinder of the engine and injured it. Such a check to enterprise was much to be deplored, but it is remarkable that, in the course of the narrative, we hear nothing more of the flaw in the cylinder.

On the 2d October the party commenced descending the river.

Before they had proceeded far they overtook a canoe belonging, as they were informed, to Fellatah tax-gatherers. 'Mr Lander' thought that seizing the king's cowries collected for taxes would 'be redeeming in part the debt due to him.' The men were therefore seized, and 26,000 cowries were taken from the canoe; but this was not enough, so two other canoes were seized, though not containing the king's cowries. Again, as a balance still remained due, a method was devised of extorting the payment of it, which is described as follows:—

'Shortly after we had anchored off Egga, Moosa, a young man, said to be one of the king's sons, came on board. We ordered him to be seized and secured in irons. Mr Lander explained to him the cause of this treatment, and told him if he would pay the amount of cowries due to us he should be liberated. He repeatedly called out, "Anabi Moosa, Anabi Moosa;" which we could not comprehend, unless it meant that he was the son of an old man of that name at Rabbah.'—(Vol. ii. p. 103.)

If such were the meaning of the exclamation (which was obviously *aná ben Músa*, I am the son of Músa), then it is plain that the pretence on which he was detained was groundless, and that he ought to have been liberated at once. He was kept in irons nevertheless, 'treated with every possible kindness,' till his friend the chief of Egga ransomed him by paying the King of Rabbah's debts. This transaction admits of no apology; it cannot be justified on any principles of prudence, much less on those of morality. To traffic with the powerful, and, abandoning the personal prosecution of claims on them, to levy their debts on the weak, is no less timid than tyrannical. It was, in a word, a proceeding disgraceful to the British name, and which will, we trust, meet with general reprobation. Nor was this the only instance in which Mr Lander or his companions assumed an undue license. Hearing, on one occasion, as they approached a town on the banks of the Shary, that one of their debtors dwelt there, they threatened to set fire to the place if he was not delivered up to them. Nay, Mr Oldfield once held out the same menace to a chief who refused to sell him a bullock. It is manifest, from every page of Mr Oldfield's journal, that he constantly eyed the black men as unworthy of trust. Have they not also in turn some reason to look with mistrust on white men and their ill-used superiority, and is not violent and arbitrary conduct like that above narrated, calculated more or less to confirm their worst apprehensions?

Near Attah or Iddah, an island, named English island, was purchased by Mr Lander; and Mr Brown was placed on it to remain with some merchandise, and to carry on trade with the natives. On the 1st of November the Alburkah reached the sea in a very

distressed plight, and meeting the Quorra soon after, was towed into Fernando Po.

The commander of the expedition, Mr Lander, though not always judicious, was certainly indefatigable. He allowed little time for rest at Fernando Po; and on the 15th of November, the Alburkah was again under weigh to ascend the river Quorra, under the command of Mr Oldfield, while Mr Lander himself proceeded to Cape Coast Castle to collect a stock of cowries. Nothing can be more dismal and disheartening than Mr Oldfield's narrative of his return up the river. He was no seaman, and the season was unfavourable; the waters having by this time fallen considerably. What besides disasters could be expected from so ill-arranged a commencement? He was nearly wrecked on the bar; nearly starved in the river; the engines would not work, the vessel being apparently without the least provision of grease or oil. He was obliged to ascend the river from Eboe to Iddah in a canoe to procure assistance, and induce the natives to tow the vessel up. The anxiety and weariness of a two months' voyage up to that place was too much for the constitutions of the Europeans who accompanied him, and they all died. It is not very surprising that the kindness of the natives, though it alleviated the sufferings, could not completely soothe, nor fill with confidence, the spirit of one harassed by such a series of vexations. Mr Lander was to have joined him with a stock of cowries; but on his way up the river, that celebrated traveller was attacked by the natives, and received a shot of which he died not long after at Fernando Po. This melancholy event hastened the movements of Mr Oldfield, who finally bade farewell to the river Quorra in July, 1834.

One of the first things that strikes the reader of the narratives of Messrs Laird and Oldfield, is their palpable suppression of matters which must have affected most sensibly the success of the expedition;—we allude, in particular, to the want of harmony between those who conducted it. The journal of Mr Laird shows evidently that between him and Mr Lander there was no mutual confidence. When obliged to await patiently near the mouth of the Shary the increase of the river, the two leaders lay at anchor six miles asunder. It is difficult to account for the inactivity of Lander at that period, when with health unimpaired, in a friendly country, where horses were easily procured, he allowed four months to pass without any attempt at enterprise, or thoughts of an excursion. Or must we suppose that his colleague in the Quorra remained ignorant of his movements?—or that, knowing them, he refused them a place in his narrative? Mr Laird,

miserably reduced by sickness, had the boldness to make his way to Fundah, and on his return at the end of two months, found that Mr Lander, who had promised to follow him, had taken the opposite direction, and gone to the coast. He accordingly proceeded on his voyage homeward, unconscious to what extent he was at cross-purposes with Mr Lander, who soon after came in sight, returning to ascend the river in one of the vessels; and for what purpose? Was it to execute the plans of the company, and to carry British merchandise up the river as far as Boussa? No: he entered the river Shary or Tchadda 'with the intention' of ascending it, if possible to lake Tchad, and of thus making a notable discovery. But foiled in that scheme, he ascended to Rabbah; and why not to Boussa? Because a flaw was discovered in the cylinder; which flaw closed up, never to be again detected, as soon as the vessel's head was turned coastwards!

The mortality attending the expedition was dreadful; on board the Quorra, twenty-four out of twenty-nine fell victims to the climate; on board the Alburkah, fifteen out of nineteen. But such mortality must not be looked upon as the inevitable consequence of exploring the rivers of Central Africa. Prudence and wise temperance will, no doubt, go far to obviate in this, as in the other equatorial regions of the earth, the causes of fatal disease. Many difficulties and delays will be avoided by proper choice of season; and the alarm of climate being gone by, exasperations of temper, and undue excitement, will be less likely to corrode the sustaining power of life. The possibility of navigating the river Quorra without inordinate loss of life, or time, has been completely proved by Mr Becroft, a mercantile gentleman at Fernando Po, who, in September, 1835, commenced the ascent of the river in the Quorra steam-vessel. He reached Eboe in thirty-seven hours. He carried on an active and profitable trade at the markets above Iddah, and returned to Fernando Po after an absence of three months, having lost only one man during that time. His intercourse with the natives was of the most satisfactory kind, and seemed to promise a continual increase of trade.

Another proof of the slight degree of confidential intercourse which existed between the various parties engaged in the expedition, may be collected from the striking discrepancies occurring between Mr Laird's text and the chart of the Quorra by Commander Allen, R.N., published by the Admiralty. Thus, for example, Mr Laird tells us, that fifteen miles above Eboe the Quorra throws off its branches to Benin and Bonny. 'We crossed,' he says, 'the Benin branch, and found it about 800



'yards wide.' Now, Mr Laird evidently mistook for a great branch flowing to Bonny, a channel of the river cut off by an island. Why did he not inspect the Admiralty chart, and expunge so glaring an error from his text? Again, Mr Oldfield speaks of a town near Rabbah, named Tcharige, of which he briefly remarks, 'this is the largest town we have met with since leaving Old England; it is only a few hundred yards from the river side.' But his fellow voyager, Commander Allen, places this remarkable town (Sháragih, as he writes it) six miles at least from the banks of the river.

Finally, we cannot but complain of the scanty amount of solid or exact information brought home from a region towards which curiosity has been so long directed—respecting which the Arabs have furnished us so many obscure accounts—and where our voyagers seem to have enjoyed such ample opportunities of collecting intelligence and clearing up all difficulties. These volumes shed but an indifferent light on the banks of the Quorra, and hardly throw a single dim ray on the country at a distance from them. Let no one examine them in the hope of discovering whereabouts is Wassanah, or the celebrated Wangara. In Rabbah, Mr Oldfield met with Arab merchants from Tripoli, Bornú and Timbuctú; and the sum total of the information he derived from them was, that Timbuctú is distant from Rabbah *ten or fifteen days' journey*. We need not trouble our readers with comments on the incorrectness of so vague a statement.

The intention, however, of the preceding comments is not by any means to show how much easier it is to make a remarkable voyage than to write a good account of it: we aim rather at the explanation of the misfortunes which beset the expedition. There is no preservative so certain against the fevers of the tropics as serenity of mind. There is no mode of dealing so effectual with uncivilized nations as gentleness, united with strict undeviating justice. We have no great confidence in Mr Laird's prescription in case of fever, 'to smoke without ceasing, and to take plenty of opium;' neither do we approve of occasional doses of brandy. But doubtful as we are with respect to specific remedies, we are confident, that had harmony existed between the leaders of the expedition—had they avoided manifesting suspicion or insult in their intercourse with the natives—their animal spirits would not have succumbed so easily to the perturbation and despondency which wing the shafts of disease in hot climates.

We do not by any means deny that the last expedition of Lander, up the river Quorra, had the signal merit of disclosing a wide

and populous region to the enterprise of British merchants, and of opening, though at melancholy cost, a path which others will soon learn to tread with ease and profit. Mr Laird bears testimony, in the most explicit terms, to the civility, gentleness, and honesty of the natives on the banks of the Quorra; and subsequent experience has fully confirmed the good opinion which he formed of them. His words are,

‘I can safely assert that, as far as my experience goes, European traders will be received with open arms by all the inhabitants of the interior; that no hostility, but, on the contrary, every kindness and respect will be shown to them; that their property and life will be as safe (excepting from the effects of climate) upon the Nigir as upon the Thames; and that nothing prevents the Eboes and other nations in the interior trading direct with the Europeans upon the coast, but the terror that a white man’s name carries with it—a terror which is artfully kept up by the chiefs upon the coast, and the disorganized state of the country produced by the slave-trade.’—(Vol. ii. p. 407.)

It is not easy to estimate too highly the benefit accruing to the human race from the means thus discovered of bringing nations so long sequestered into immediate and active communication with European civilisation. The whole human family must benefit by the improvement of so considerable a branch of it; but those who benefit most by all such improvements and discoveries, are the industrious and manufacturing nations, to whom markets are better than gold mines, and consumers are the most faithful allies.

Since commerce and science are equally interested in the extension of our acquaintance with the habitable globe, it may appear to many surprising, that the systematic prosecution of geographical discoveries should not be reckoned among the duties of an enlightened government. But, in truth, there is some difficulty in dealing practically with so vague an object. Plans of discovery founded on enlarged views, and aiming at ulterior benefits, are not always brilliant enough to attract attention. Those, on the other hand, which have for their object the unravelling of geographical mysteries, long and loudly debated, are welcome to the public for the sake of their excitement; and if they involve great preparation and expense, they awaken on that account a livelier interest. Enormous sums, it is well known, have been expended by the British Government in endeavouring to solve geographical problems which puzzled our ancestors—not because the solution of them promised any useful results—but because the willingness of Government to promote discovery in general was acted upon by influential individuals, whose views were limited to some favourite schemes. Thus, we have surveyed a portion

of the northern coasts of America at a cost exceeding perhaps a hundredfold what the Russians have paid for the survey of the frozen shores of Siberia. Had a tithe of the sums expended on the northwest passage been devoted to the gradual exploration of inhabited countries, where the paths are open, the results would by this time have swelled into great importance. In like manner, large sums were wasted on African discovery, in subordination to views rather speculative than practical; till at last, in searching for the Nigir, the discovery was arrived at circuitously,—we might almost say reluctantly, that the Quorra flows into the bight of Benin.

But if African discoveries are to be prosecuted, it may be asked where are we to commence, or whither are we to direct our steps? We reply, that wherever there is commerce there is sure to be a beaten road, more or less secure; and the object should be to explore these roads patiently and unobtrusively, as far as care for safety will permit, in the confidence that use and intercourse will daily enlarge the bounds of safe traffic. If Timbuctú be still an object of curiosity, it may be approached securely by the Quorra, where British merchants will soon become familiar and welcome visitors; or it might be reached from Cape Coast Castle through Ashantee, on the friendship of the king of which country we may at the present time securely rely.

There are some points on the western side of Africa, where a short exploration might be productive of valuable results—as, for example, Nourse's river, in lat.  $17^{\circ} 40'$  S. That river, though barred, may be easily entered by small vessels; and from the nature of the country through which it flows, it is likely that the stream will not be found to diminish for a long way up. It is probably the Cunene (or Great river) of the Portuguese maps, which is represented as flowing towards the south from the hills in the interior of Benguela. The native tribes, near its source, are said to be numerous and industrious. Those who occupy the western face of the mountains, between Benguela and Cape Negro, appear to have escaped, in some degree, the disorganization arising from the slave-trade. They cultivate the soil with great care, forming terraces, which are irrigated with water-courses. They have had hitherto scarcely any intercourse with Europeans.

An intelligent observer, landing at Walvisch bay, might possibly collect there some useful information at little cost; but a spot so sterile has certainly no peculiar claims to attention. All expeditions to explore the interior, from the Cape of Good Hope, are liable to a formidable objection—namely, that 1000 or 1500 miles of desert, or monotonous plains, are to be crossed before the tra-

veller reaches what can be called new ground: his spirits are wearied, and his purse drained before his discoveries have well begun.

The eastern coast of Africa offers a fairer and more interesting field. It is remarkable, that in the seventeenth century, Isaac Vossius had already arrived at the opinion that the easiest access to the interior of the African continent is from the eastern coast; and he tells us that the Portuguese were very busy exploring in that quarter. We are not acquainted, however, with any attempt made by them, previous to the last century, to penetrate the country northward of the Zembési, except in the instance of Fonseca, who ascended the river Ozy eleven (or according to De Barros, only five) days' journey. The ex-Sultan of Patta, who dwells on an island about fifteen miles up that river, ascended the stream a few years back, to a distance of two months' journey, and was desirous to unite with a British officer in an attempt to cross the African continent. The caravan route from the interior of the Somanly country to the shores of Borbora, in the gulf of Aden, has been trodden from the commencement of history. The jealousy of the natives, which for ages excluded Europeans from their ports, has been latterly diminished by the presence of the cruisers of the East India Company on the Somanly coasts. This intercourse began in hostility, and has terminated in friendly habits. In 1833, when a caravan of 6000 persons descended to the annual fair near the seashore, one of the Somanly chiefs offered to take a volunteer of the *Palinurus* into the interior. In like manner, the people of Brevia and the adjacent coasts have recently relaxed in their hostility to strangers; and have even invited the supercargoes of English merchant vessels to visit their country.

It is a fact not much known, that extensive territories on the eastern coast of Africa were offered for sale to Queen Elizabeth by some Portuguese merchants, who warranted them to abound in gold, and to belong to nobody *but the natives!* The Portuguese ambassador interfered with a remonstrance, or rather a supplication, and the Queen magnanimously declined the captivating offer. At present, British merchants are actively engaged and well received along these coasts, and now the spirit of Elizabeth would proudly smile on their enterprise, and gladly aid them in establishing an intercourse with newly-discovered nations.

**ART. IV.—1.** *Report from the Select Committee on Metropolis Police Offices, with the Minutes of Evidence, Appendix, and Index.* Ordered by the House of Commons to be printed: 29th June, 1837.

**2.** *Extracts from the Second Report of the Inspectors of Prisons for the Home District, with Circular of the Right Hon. the Secretary of State for the Home Department to the Magistrates assembled at Quarter Sessions of the Peace, and to the Justices of Boroughs.* By Authority. 8vo. London: 1837.

**T**HE branch of Criminal Justice to which it is our present design to advert, is that commonly known under the name of Police, which is, or ought to be, a methodized system for the prevention and detection of crime. The influence of police establishments upon the morals of society, is generally admitted to be extensive, whether for good or for evil, and exceeds that which can ever be exercised immediately by judicial institutions; because it is the office of police, rightly understood, not only to arrest crime in its growth, but to prevent offences from taking root in the social soil. Infinitely more important is it to the well-being of a state, to check the opening path of the novice in wickedness—to block up the entrance of that wide way which leads to destruction—than to cut short the career of the hardened criminal by making him a terrible example of the vengeance of the law. It has always appeared to us that the permanent diminution of crime is attainable only by the removal of its primary causes—ignorance and poverty; and by the diffusion of moral and religious instruction, in connexion with a well-regulated system of police, and of secondary punishments: and, highly as we value the recent mitigations which have taken place in our criminal jurisprudence, we are disposed to think improvement, at present, needed even more urgently in *preventive*, than in *executive* justice. We therefore claim for the subject before us, if not for our own remarks, the earnest attention of criminal law reformers.

In addition to its office in apprehending offenders, the police of civilized society, and especially of large towns, is charged unavoidably with the execution of many duties, not strictly belonging to preventive justice, but contributing materially to the health, security, and convenience of the public. In France, Prussia, and other continental states, as is well known, the interference of the police in the ordinary actions of life, is carried to

such an extent, that no citizen can consider himself as living otherwise than under its immediate *surveillance*. But we are not about to recommend the indiscriminate imitation of foreign systems, comprising, as they do, many regulations inappropriate to our institutions, and which would needlessly restrain individual liberty in this island, where there are, happily, no political reasons or pretences for their adoption. We are well aware that it is no easy matter to draw the line to which the interference of a preventive police may properly be carried. Whatever can be considered in any shape an encroachment upon individual liberty, requires much caution and delicacy in its enforcement; and it will not do to apply hastily to this country regulations which may work well in France, but to which the French have been accustomed, perhaps for centuries. The French police often interferes very minutely, and at the same time very uselessly; and our belief is that its excellence has been greatly exaggerated. But it is plain that, at least in crowded cities, a power ought to exist for the suppression of tumult, noise, and disorder—the regulation of locomotion and traffic—the correction of indecency—and the prevention of a numerous class of annoyances and impositions, which can only be restrained by being taken cognizance of at the instant. To these may be added a number of petty disputes, the immediate settlement of which tends materially to the preservation of the public peace. Over such subjects as these, it is obviously for the general advantage that the police should have a summary control; and any apprehension of danger to the liberty of the subject, can only be founded on its abuse, and not upon its proper exercise.

The organization of the present metropolitan police force was effected under the direction of Sir Robert Peel, who held the Seals of the Home Department in 1829, when the act of the 10th Geo. IV. cap. 44, was put into execution. That act was founded on the recommendation of the Select Committee of the Commons in 1828, which, indeed, embodied the suggestions of several former Committees; particularly those of 1816, 1817, 1818, and 1822. The miserable inefficiency of the local functionaries of the parishes—the absence of every thing like union, or regular control over them—and the progressive increase of crime in London, had for some years past aroused the attention both of the Legislature and the public; but no remedy whatever was applied until the act of the 10th Geo. IV. came into operation. The peace of the city was preserved on every occasion of real or apprehended tumult, by the display of a military force; and the civil power was rarely seen in action, unless in cases of some very flagrant violation of the public tranquillity, or some deep

injury to individuals. The state of the metropolis may be in some degree imagined by those who are not old enough to remember it, from the declaration of Mr Fielding, a police magistrate, before the Committee of 1817: that, considering the daring character, and the number of profligate and experienced depredators, the general tranquillity was 'miraculous.' Thieves were organized in known classes—day thieves, and night thieves, and hustlers of passengers—who are described as a 'desperate gang.' 'Flash-houses' were then a necessary part of the police system, where known thieves, with the full knowledge of the magistrates and police-officers, assembled, until the state, or individuals who had sustained losses, bid high enough for their detection. The accuracy of this description is recognised by the Commons Select Committee of 1834. It further appears by the evidence taken before the Committee of 1817, that, at one end of the metropolis, bull-baiting was a diversion allowed; and that the police magistrate above quoted confessed he had not 'sufficient strength' to stop it; and that to interfere with 'the slender strength' he had, 'would most likely lead to greater disturbance by their being overpowered.' In another district, duck-hunting, and dog-fighting, were constant Sunday sports, with the full knowledge of the police. The vestry-clerk, resident in St Matthew's, Bethnal-Green, in answer to the question 'Have you seen, in the neighbourhood of the church, or churchyard, duck-hunting and dog-fighting?' replies, 'There is scarcely a Sunday there is not. I have gone out with the greatest anxiety, when my wife and family were going to church, to protect them.' The same witness being asked, 'Have you ever witnessed bullock-hunting, and that riotous assemblage of persons in the neighbourhood of the church and churchyard which has been detailed in evidence before this committee?' answers, 'Oh yes, many times; the most disgraceful thing in the country. I have offered to turn volunteer to prevent it. On Monday and Friday we have a bullock or poor cow hunted. The butchers round Hackney and Bethnal Green have paid police-officers for having their bullocks brought home safe, and as soon as that pay ceased, their attention ceased.' Such a state of things shows the necessity which existed for a thorough change of that system which subdivided the metropolis into a number of petty jurisdictions, each acting independently of, and continually frustrating the efforts of the other; whilst crime was increasing in a greater ratio than the population, and the proportion of criminals to the population in the metropolis far exceeded that in all the rest of the kingdom. Comparing with such a system the degree of order and protection which has already been

obtained by the establishment of the centralized police force, it will not be disputed that great practical benefits have resulted from that measure. These benefits were justly noticed by the Commons Committee of 1834, who also, in their report, replied to certain popular objections which for a time prevailed, and offered various suggestions for the further improvement and consolidation of the new force. But these suggestions have only been partially carried into effect, and there was abundant room for the enquiries of the Committee appointed last Session, on the motion of Mr Hawes. The labours of that Committee were suspended by the abrupt termination of the late Session, but not without collecting some valuable evidence, to much of which we shall have occasion to refer in the course of our present observations on the subject.

It may scarcely be necessary to state, that the sphere of action of the metropolitan police at present comprehends the several metropolitan parishes on both sides of the river (with the exception of those within the city of London), and a number of outlying parishes, either specified in the 10th Geo. IV., or which, being situated within twelve miles of Charing Cross, have been added to the police district by the King in Council, under the provisions of that act. The number of parishes, and extra-parochial places thus united, is altogether about ninety; and the expenses of the police force are defrayed by a rate, three-fourths of which is paid by the parishes, and the remaining fourth by the Treasury,\* to which is added a small fund derived from fines, and voluntary payments by individuals. The sums thus levied and expended in the last two years appear to have been,—

	1835.	1836.
Amount actually received, . . .	L.210,428	L.212,308
Balance outstanding at the end of the year,	43,030	48,229
Amount actually paid, . . . , .	L.201,964	L.208,099
Do. owing at the end of the year,	6,257	8,213
	L.208,221	L.216,312†

\* The Treasury also makes up the difference between this one-fourth and L.60,000, but its advances are limited to that sum by 3d and 4th Will. IV., cap. 89.

† See Returns ordered by the House of Commons to be printed, respectively, 1st March, 1836, and 27th February, 1837.



The police establishment thus maintained consists of two commissioners and their clerks, a receiver, and an active force of 3406 men. The following was the last Parliamentary Return, since which the number has remained the same :—

17 superintendents, at L.200 per annum, each.

70 inspectors, at L.1, 18s. 6d. per week, each.

342 sergeants, at L.1, 2s. 6d. per week, each.

2977 constables, at 19s. per week, each.\*

To which should be added L.10,000 for the expense of the horse patrol (about seventy in number) recently transferred to the metropolitan commissioners; and L.51,000 for the annual charge of the nine police-offices; the establishment of which consists of twenty-seven magistrates and their clerks, a receiver, and sixty-three constables, exclusive of the river police, composed of twenty-two surveyors and seventy constables. It thus appears that the annual cost of the police of the metropolis and its suburbs (exclusive of the city jurisdiction, to which we shall presently advert) is about L.280,000; and if we suppose the population of the parishes to which it extends to be 1,500,000,† the total charge will be in the ratio of about 3s. 8d. per head to each inhabitant. But inasmuch as the parishes, in fact, pay only three-fourths of the metropolitan rate, and no part of the expenses of the police-offices, the real charge to the inhabitants is only about L.160,000 per annum, or in the ratio of 2s. 1d. per head;—a sum, *primâ facie*, moderate enough, and which could hardly afford a reasonable ground of complaint, if all the benefits were thereby attained which a sound police system is capable of conferring. How far this is the case we shall presently see. We propose to notice in succession what appear to us to be the principal defects of the existing system, suggesting under each head the appropriate remedies. After the proofs which have been given by the noble Lord who presides over the Home Department, of his desire to promote practical reform in other branches of criminal jurispru-

\* See Return for the year 1835, ordered by the House of Commons to be printed 13th June, 1836.

† This is intended to exclude the population of the city, and to include that of the outlying parishes, which are all populous; comprising Hampstead on the north; Hackney, Poplar, Stratford, &c., on the east; Greenwich, Deptford, and fourteen parishes in Surrey, on the south; and Kensington, Chelsea, Fulham, Hammersmith, Chiswick, Ealing, Acton, and Brentford on the west. The population of the several parishes and places comprised in the last police return was, according to the census of 1831, about 1,300,000, and adding fifteen per cent for subsequent increase, we have a present population of 1,500,000.

dence, no doubt can be entertained that the recommendations of the Select Committee, which has resumed its labours in the new Parliament, will receive the earnest attention of her Majesty's Government. In the mean-time, we must beg that our observations may be understood as being directed to the system, rather than to the conduct of the individuals employed; and, particularly, as in no sense depreciating the services of the two gentlemen who preside, as commissioners, over the metropolitan force, with so much credit to themselves and advantage to the public.

The defects of the present system of metropolitan police may be classed under the following heads :

1st. Imperfect consolidation.

2d. Disregard to public convenience, and to economy, in several respects.

3d. Improper admixture of executive and judicial duties in the office of magistrate.

4th. Want of a more extensive summary jurisdiction.

5th. Want of authorized informers, and of peculiar attention to hindrance of crime.

6th. An erroneous system in regard to bail.

7th. Want of a public prosecutor.

8th. The Grand Jury obstruction.

1. *Imperfect consolidation.* It would be superfluous, at this time of day, to adduce arguments to show that the efficiency of the police of a given district, depends mainly upon the force employed within that district being consolidated under one head—so as to preserve uniformity in its regulation and discipline—to establish a proper gradation of officers, and division of duties—and to change the positions and occupations of the functionaries, as occasion may require. This principle, adopted as a matter of course in the army and navy, is equally applicable to the police service; and has been distinctly recognised by the appointment of the central establishment, under the act 10th George IV. But it will be obvious that the consolidation thus effected, is incomplete, whilst various independent establishments continue to act within the limits of the metropolitan district. Each of the nine police offices has a corps of constables of its own, from six to ten in number, for the performance of such duties as the magistrates direct, ordinarily within the district over which they preside. The River police, consisting of nearly 100 officers, also exercises a separate jurisdiction, under the magistrates of the Thames police-office; and the City of London has an exclusive system of day police and nightly watch, in its twenty-six

wards, under the control of the municipal authorities. In these respects the principle of consolidation has not been carried out as it ought.

It has been objected that the incorporation of the constables attached to Bow Street and the other offices with the metropolitan police, would weaken the confidence which the magistrates ought to have in the officers they employ; and that the unity of action between magistrate and constable would probably be impaired. This objection, however, assumes that the police commissioners would not continue to place the requisite number of trust-worthy constables under the magistrates of each office, which, of course, they must do, so long as the magistrates have any thing to do with the issuing of warrants, or the executive department of police. But what is required is, to remove the officers from the control of the magistrates as regards their discipline, and the regulation of their general conduct,—in every thing, in short, except the specific duties in which the magistrates may require their services. What is recommended is, ‘that the constables allotted to the several police-offices now acting independently of each other, should be incorporated with as little delay as possible with the metropolitan police; so that, although under the direct and immediate control of the police magistrates for all the business of their respective offices, and immediately responsible to them for its due performance, they may, as to pay, clothing, and general discipline, be subject to the regulations and ultimate control by which the general body is governed.’\* Not the least advantage of this arrangement would be to obviate the feeling of jealousy, and want of cordial co-operation, which, since the establishment of the new police, have been remarked as subsisting between the constables of the old and of the new regime; and to remedy which, we presume, the Secretary of State has lately been accustomed to select the office constables out of the metropolitan force; but as, on such appointments, the constables cease to belong to the metropolitan police, the objectionable principle of disunion then comes into action as much as if they had been chosen out of any other body.

The police of the River Thames is another constabulary force which ought to be united with the central establishment. It has jurisdiction as far as the river runs between the counties of Middlesex and Surrey, Kent and Essex, but is principally employed between Westminster and Greenwich, whilst both banks of the river along the whole of that line, with the adjoining neighbour-

hood, are in charge of the metropolitan commissioners. A difficulty has indeed been suggested in the way of consolidation—that the duties of the Thames police are, in many respects, of a peculiar description—relating to the execution of the dock and revenue acts, and to the settlement of disputes as to seamen's wages, and quarrels among colliers, ballastmen, and others of that class. But the executive part of these duties is surely not beyond the capabilities of the metropolitan police; and to suppose any police magistrate incompetent to act in them judicially, would be to pronounce him unfit to be a magistrate at all. Mr Ballantine, the present senior magistrate of the Thames office, and who has been employed there for sixteen years, being asked by the committee whether there was any practical difficulty in the way of the proposed consolidation, replied, 'There is no objection to it on the score of principle, and I think it is quite practicable.'\* We shall hereafter speak of the expediency of separating the judicial from the executive functions of magistrates; but it is scarcely possible to doubt that the metropolitan police would work the executive department on the river with better effect than the present force. One witness indeed objected to the change, on the ground that the funds in the hands of the metropolitan receiver would be unable to bear the further charge of the Thames police (£6000 per annum); but this objection was founded on the presumption, that the Treasury allowance would cease to that extent; whereas the proposition, of course, assumes that the Government grant should continue to be paid, only with a different appropriation.

The third defect in consolidation is the most serious of all; namely, the exemption of the City of London from the jurisdiction of the metropolitan police; the police of the city being a separate body under the municipal authorities. Such a distinction is as absurd in principle as if the city were allowed a municipal post-office, the very essence of which department, like that of police, consists in centralization. The city police jurisdiction, as respects crime, has not unaptly been compared to the clergy reserves in Canada—not used by those to whom it is appropriated, and injurious to the neighbouring land-owners. 'So the city authority for the police is a desert in the way of improvement, planted in the midst of the improved system, as if the object had really been to prevent the complete success of the improved system.'† The state of the city police is, in fact, pretty much

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\* Minutes of Evidence of Select Committee of 1837. P. 94.

† Evidence of Edward Gibbon Wakefield, Esq. before Select Committee of 1837. P. 125.

that of the metropolitan parishes under the old system. The day constables are a distinct body from the night watchmen, who act exclusively within their own wards, and the duties of both are very inefficiently performed. The day police, it is said, are improved; but we are inclined to think that the city corps is, upon the whole, one with which the central commissioners would hardly be disposed to 'march through Coventry.' A wish, it seems, was lately expressed by the citizens to have a sight of their policemen, and an order for a muster in Guildhall was made by the corporation, but we are told that a compliance with this order was considered rather too hazardous an experiment. '*The wards resisted it; they would not show up their men in Guildhall, to show what sort of a regiment they were.*' The following extracts from evidence taken by the Committee of last Session will give some notion of the city system of management.

Mr W. L. Jones, one of the Common Council of London.\*

'What is the present state of the police of the City?—I should say it was any thing but good, as respects the night-police; the day-police is very much improved, but the night-police, as respects its arrangement, and the parties employed, is not good, there is such a mixture of individuals; and, looking at the formation of the city, there is nearly twice the ground gone over which would be necessary with a well-regulated police. Here is a street with two men going up and down it, that street dividing two wards, and each being patrolled separately; many of the streets in the city of London are very narrow, one portion belonging to one ward, and one to another; two men are actually doing the same thing in consequence of this.

'Are the men called constables?—Watchmen.

'Are there orders by authority of the wards that the watchmen are to continue to do their duty in their own wards?—They are confined entirely to their own wards; and I have known instances where a robbery has been committed, or a person knocked down, and such has been the pertinacity of the watchman, that he would not go across the street to do what was necessary because it was out of his ward.

'Are many of the men who are employed inefficient?—A great many of them are very inefficient; I can only ascribe their state of inefficiency to a very remarkable circumstance. When the police was agitated, there was a very great wish to have a review of the whole troop of the city; but the wards resisted it,—they would not show them up in Guildhall, to show what sort of a regiment they were.

'Did not an absolute order go from Guildhall to the wards, directing those men to attend muster in the Guildhall?—Yes, certainly, and that was resisted by the authorities in the wards.

‘Are there any parts of the day or night in which the city have no police whatever in the streets?—I believe there is, in the morning, and in the commencement of the evening, between the night-watch coming on, and the day-police going off.

‘Do you know whether it amounts to as much as two hours at any one time?—It did amount to more than two hours, but it has been better regulated in most of the wards, I believe, now, but still it is upwards of an hour, or an hour and a-half.’

Mr Richard Gregory, a resident in Spitalfields.\*

‘What opinion do you entertain of the City Police, as it is now managed?—It is a very bad one; very bad, indeed. I may state an instance which I mentioned to the late Lord Mayor, when I was dining with him at the Old Bailey. I asked him what he thought of his police, when a carter jumped out of his cart, and apprehended a notorious thief, with his companion, and two women, who had been plundering in the city for thirty years to my knowledge, and yet had not been taken up, although their conduct was so notorious, that the man jumped out of the cart and apprehended them, and they were convicted at the Old Bailey Sessions while I was there.

‘Do you think the parties were known to the police?—Yes, as well as I know every man who works upon my farm.

‘What reason have you to assign for their not taking them up?—There are various reasons. In the first place, there is a regular pay system; half of our old police have received more money from the old thieves they suffered to remain, than they have for their services from the public.

‘Do you apprehend the same evil is now existing which existed in the time of the old police?—I think nothing else can be expected: whenever I go into the city, I see old thieves I have seen for many years, and they are never brought to justice by the police; they are brought to justice by individuals.

‘As compared with what is called the Metropolitan Police, which do you consider the most efficient force, setting aside for a moment the consideration of the inconvenience which arises from having different jurisdictions? The Metropolitan Police is, fifty to one, the best.

‘Has not the City Police been new modelled within the last few years?—Yes; but as long as the heads are not responsible for the conduct of their men, it never will be a good police. I may mention as an instance, that there was a City Marshal, not long ago, who was mixed up with a transaction about some stolen property; there was a robbery, at the Royal Exchange, of some watches; there was an application made to an old thief, and the thing was all hushed up, and the property was sent back; the City Marshal still retains his place.’

These statements—which are corroborated by much other

testimony to the same effect,\*—are sufficient to show the laxity, and something more, of the police in the *City Reserve*. The patronage of the watchmen is, it seems, in the hands of the Common-Councilmen, who, probably from finding it a convenient means of providing situations for their constituents,† actually frustrated the passing of an Act of Parliament in 1832, whereby the City Magistrates sought to consolidate their night and day-police, and otherwise improve its management. From the Report of the Committee of the Civic authorities on that occasion, we quote the following confirmation of the evidence already cited:—

‘The sub-committee having had before them the returns from the several wards of the number of constables annually elected at the respective wardmotes, and the duties performed by them, they find that a great majority of the constables so annually elected do not execute their office in person, but serve by substitutes, and frequently send their porters and servants to do their duty during the sessions and at executions, to which, with the nightly attendance by rotation at the watch-house of their respective wards, the duties of such constables appear to be, of late years, almost entirely confined; and that no attention is now paid by the constables to the removal of nuisances and obstructions in the public streets, at fires, or other cases of emergency, or upon public ceremonials. They also find that these duties frequently are not performed by the substitutes themselves, but that these latter are in the habit of hiring the night-watchmen, and others, to attend for them.‡

The Corporation of London profess, undoubtedly, a desire that their police should be reformed, but object to the only measure that is likely to ‘reform it altogether,’ namely, its consolidation with the metropolitan establishment. We have looked in vain for any sufficient reason for permitting the continuance of a local police in the city, any more than in the parish of Marylebone, or any other large district. We really are by no means satisfied by the argument of Mr Alderman Venables: ‘The reason why I would say I claim respectfully the right of the city to have a separate police, is *because I find that, for a very long period it has existed, and is in existence.*’§ Looking at the question merely in a financial point of view, the city police

\* See particularly the evidence of Mr Tickner, and Mr Anderton, members of the Corporation, and of Mr Wakefield, as to the case of *Ikey Solomons*.

† Evidence of Mr W. Jones, p. 113.

‡ See paper delivered in by Mr Alderman Venables. *Minutes of Evidence, 1837*, p. 145.

§ *Minutes of Evidence, 1837*, p. 141.

is enormously expensive. Upwards of 1000 persons are employed as marshalmen, watchmen, and constables, and the total annual expense, according to the last return, was L.43,862; of which L.34,924 was levied by direct rates upon the inhabitants, and the residue paid by the City Chamber.\* Now the population of the city is about 122,000;† so that the cost of its police is in the ratio of 7s. 2d. to each inhabitant, being very nearly double the cost of the metropolitan police, which, we have seen, is in the ratio of 3s. 8d. per head; and this for a ragged regiment which was ashamed to show itself in muster at Guildhall! According to an estimate made by the metropolitan commissioners, a saving of about L.14,000 a-year‡ would be effected in the present expenditure by the consolidation of the city police with the central force.

It is unquestionably essential to the due administration of justice, not only that the executive police of the city should be placed under the central commissioners, but that the powers of all magistrates, either within or without the city, should be extended, so that they might act indiscriminately for all parts of the metropolis. Can there be a greater reproach to justice, than that riots should continually take place with impunity on the confines of the city, because the central police cannot pursue the offenders within that jurisdiction;—§ that thieves should constantly escape, by passing from the Strand, within Temple Bar, because a warrant from Bow Street has no force in the city, until it is backed by the signature of an alderman? Yet such is the system which continues, we will not say to withstand the reiterated remonstrances of Parliamentary Committees, but to insult the common sense of men. We will not waste words upon it, beyond recalling the strong opinion which a select committee expressed as long as *forty years since*:—‘That it would be unfortunate, indeed, if any local jealousies, founded upon no just

\* Return for 1835, ordered by the House of Commons to be printed, 13th June, 1836.

† According to the census of 1831, the population of the 97 parishes within, and the 12 parishes without the walls (exclusive of the Inns of Court, and Trinity in the Minories, which are within the central district), was 121,479, and it is rather on the decrease. Even if we take the population at 158,000, as stated by Mr Alderman Venables, upon we know not what authority, the cost of the police will be in the ratio of 5s. 6d. per head.

‡ Evidence of Colonel Rowan and Mr Mayne, Committee 1834, p. 319.

§ Instances of this occurred in November, 1830, when the late King intended to visit the city; and in March, 1832, on the occasion of the general fast.



'grounds, though entertained by very honourable minds, should continue to deprive, even the inhabitants of the city itself, as well as those of the rest of the metropolis, of that security which a more permanent attendance, and a perfect intercommunity of jurisdiction in criminal matters between magistrates in every part of the metropolis, and of the four adjoining counties, could not fail to produce.'\*

We should add, that the bad effects of the comparative impunity existing in the City, arise also in all other parts of the country where no preventive police has been established. No preventive system can be perfect until a regular chain of communication, under one central authority, is kept up throughout the whole kingdom; and to this end a commission has been for some time engaged in enquiring into the means of organizing a rural police. At present the only way of catching a thief at an outport is by despatching a special officer from London to arrest him; and such provincial towns, as have no police, are actually breeding thieves for the London market.

2. *Disregard to public convenience, and to economy in several respects.*—The police offices of London, with the exception of one or two lately built; are small, dirty, and inconvenient rooms.† On approaching them, it is not uncommon to see a crowd of people standing in the street, round the door, unable to obtain admittance, from the fulness of the room; and, when an entrance can be effected, the organs of hearing and smelling are alike offended by noise and by stench. There are rarely any separate waiting-rooms for witnesses; so that they have to stand mixed up with offenders, in the midst of a crowd, often of a very exceptionable character. A modest female, who may be attending as a witness, is thus huddled by the side of a prostitute, a vagrant, or a diseased pauper.‡ We have heard of a robbery committed in the very office. To appear as a witness, or prosecutor in such a place is disagreeable enough, but what must be the feelings of a person of respectability—perhaps innocent—who is dragged as a prisoner into the midst of such a scene? The station-houses in

\* Report of Committee of House of Commons, in 1798—repeated by Select Committee of 1834.

† The public office in Bow Street, where the chief magistrate presides, is 28 feet long by 15 wide, and the space of it appropriated to the public is only 15 feet by 14. The waiting-room, in which offenders, constables, and witnesses are placed altogether, is about 19 feet by 10. In other offices there is still less accommodation.

‡ Evidence of James Traill, Esq. Committee 1827, p. 40.

which persons are lodged for the night, when they are taken into custody too late for the magistrate's sitting, and in which they remain the whole of Sunday, are also very bad, not having the means of individual separation; and, as offenders are placed together in considerable numbers,—sometimes as many as twelve in one small, dark cell,—the language and conduct which prevail may be easily imagined.\* But the evil does not end there. The Vans which take the offenders to prison, and from thence often back to the police-office for re-examination, are, at present, a very objectionable mode of conveyance; and the chains to which they are sometimes fastened, in walking handcuffed, are still more disgraceful. We quote the following from the evidence of Mr Ward:—

‘The vans will not hold conveniently more than twenty persons; but as one van calls at several police-offices to take up, they sometimes bring twenty-five, and even thirty prisoners and more. Those who go back to the police-office for re-examination, are handcuffed, at the discretion of the turnkeys, in batches of two, three, or four. Men and women sit indiscriminately in the van: when it is very crowded they are obliged to stand, or sit on each other's knees. Women sometimes sit on the men's knees. There is no light in the vans, although the late vans, and, in the winter, the early ones also, travel in the dark. This has led to many irregularities: for instance, I have heard of a man taking indecent liberties with a woman in the van, and giving her half a sovereign in consequence; also, of a prisoner having been robbed of his watch in the van, and of another prisoner being robbed of his pocket-book and gloves in the van, when there were thirty-four persons in it, and they were found upon the person of the prisoner who sat next him. Such things are very possible now. The prisoners in the van are many of them drunk,—so drunk that they cannot walk to the receiving-room without assistance. The women are often so drunk that when put to bed they are sick over the bedsteads. Some prisoners are not only filthy with vermin, but ragged to an indecent degree. Prisoners of the more respectable kind naturally complain of the vans, and I think they ought to be fitted with several compartments, in order to separate the more decent from the filthy and drunken prisoners: at all events, male prisoners ought to be entirely separated from females.’ . . . . . ‘Prisoners are not invariably removed from the police-offices in vans. Between Hatton Garden office and Clerkenwell prison, they walk handcuffed

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\* The station-house in Bow Street has only twelve cells, the dimensions of which are from ten to twelve feet long, by about eight wide, and seven feet high. There are seldom less than twenty persons locked up in the station-house nightly, and on a Sunday night the number in custody has exceeded one hundred! The total number of police station-houses is about fifty.

and fastened to a chain. Five or six men, and probably the same number of women, are thus fastened together, and exposed to the public gaze, in a manner which must be most painful to any decent prisoner. Persons have been known to give the prisoners drink as they passed along with the chain. I understand that prisoners have been brought to Clerkenwell in this way, from still greater distances, even from Kensington.\*

So barbarous a practice as this of the police chain, reminds us of old stories in the Newgate Calendar, rather than of the improved notions of modern times. And indiscriminate association in the police-offices, and station-houses, appears inconsistent with that principle of individual separation, which has been expressly sanctioned by Government in regard to prison discipline.† Nothing would be more practicable than to keep prisoners apart in every stage of police; and the fears entertained by some of injury to health, would here, at least, have no application.

The situations of the nine police-offices seem to be by no means those most conducive to the public convenience. The Lambeth Street and Thames police-offices, for instance, are very near each other, and the Union Hall office is close to the Town Hall, Southwark, whilst there is a large district, west of Union Hall, and another between Queen Square and Kensington, which is insufficiently provided for. It appears, moreover, that there is one, if not two offices, more than necessity requires; since the Lambeth Street office might be easily incorporated with the Thames police, and by removing the Union Hall office farther west, and adding a little to the Marlborough Street, or Bow Street district, the Queen Square office might probably be dispensed with also.‡ The expense of a police-office is on an average £4000 per annum, and there seems room for economy, not only by a better distribution of the offices, but by dispensing with the attendance of two magistrates, in a great number of trifling cases, where the presence of two are now required; whereby some reduction in the number of magistrates employed might be effected. We have the unanimous testimony of several police magistrates, and other experienced persons, that the public do not consider the presence of a second magistrate as of the slightest importance, but on the contrary are often disappointed, because

\* Statement of John Ward, Esq. Minutes of Evidence, 1837, p. 191.

† See Lord John Russell's excellent Circular, dated 15th August, 1837, prefixed to the 'Extracts' forming the second publication at the head of this article.

‡ See Evidence of S. M. Phillips, Esq. and Sir F. Roe. Minutes, 1837.

a case cannot be heard until a second magistrate arrives. Our own opinion is, that where the responsibility is divided, the decision is more likely to be erroneous than where it emanates from only one. It must, however, be borne in mind, that if the summary jurisdiction of magistrates were to be extended, as we shall presently propose, their labours will, of course, in that respect, be augmented. But, on the other hand, it is a part of our plan to confine them strictly to their judicial duties, and, in the opinion of one at least of their own body, the magistrates are far from being overworked at present. ‘I think,’ says Mr Traill, ‘the magistrates are not sufficiently worked to be good public servants: it appears to me that a man who has one-third of his time wholly unoccupied, one-third partially, and only the other third fully occupied, is not sufficiently employed about his duty. I do not speak that reproachfully of myself or any other person; but speaking from my own personal feeling, I am more able to do work if constantly employed, than if I am only occasionally employed: I find the more work I have to do, the better I am able to do it; it is not a reproach upon myself and my brother magistrates that we are not sufficiently worked; for we have no more work to do.’ \*

3. *Improper admixture of Executive and Judicial Duties in the office of Magistrate.*—There is no more important principle in jurisprudence than that of the separation of the judicial from the executive, or ministerial functions. The truth of the proposition is almost self-evident. If a law were to be made for uniting the duties of judge and sheriff, of justice of the peace and constable, in the same individuals, it would not only be found impracticable to perform them properly, but the very attempt would produce the most ridiculous confusion. Such a scheme would certainly be scouted as absurd, as well as mischievous. But many of our readers are not perhaps aware that, at this time, the functions of the constable, or executive officer, are actually performed by the police magistrate, to a considerable extent. Much of the magistrate’s time is occupied in advising and directing the police officer in getting up evidence—in shaping cases upon which the same magistrate afterwards commits for trial, or summarily convicts. The magistrate hears an *ex parte*

\* Evidence of James Traill, Esq. (magistrate at Union Hall). Minutes, 1837, p. 39.

statement; upon that statement he issues his warrant or summons to bring the offender before him. When the case comes on to be heard, there is perhaps not sufficient evidence to justify a committal, or bring the offence within some act of Parliament; the prisoner is therefore remanded for further examination, (with probably an observation from the bench, that a week in gaol will at all events do him no harm); and the magistrate thereupon instructs the officers what evidence should be hunted up in the mean-time. We remember it was the habit of Lord Eldon, in adjourning his decisions, often to say—‘ Let the case stand for such a day; and if I could see an affidavit of such and such facts, it might remove much of my present difficulty.’ The day appointed arrived, and lo! the affidavit was always forthcoming, though not perhaps the judgment. The police magistrates, however, do not seem to be always so successful in obtaining the testimony they desire, for prisoners are remanded not once only, but twice, thrice, and oftener.\* This practice, which subjects persons to the misery and contamination of a gaol, before there is any evidence of their guilt, is much to be deprecated; but the gist of our present objection is to the interference of the magistrate in getting up a case, in which he himself afterwards acts judicially, either by committing for trial, or summarily convicting. We hold that a magistrate ought to have no previous knowledge of a matter with which he has to deal judicially; and that his functions ought not to exceed those constitutional duties which the existing law defines clearly enough, viz.—the conservation of the peace, by requiring sureties, according to the terms of the commission; the investigation of offences for trial, and committal of the offenders; the exercise of the power of summary jurisdiction under special statutes; and that of the judicial function at quarter-sessions.† We therefore entirely concur in the opinion expressed by several intelligent magistrates,‡ that the whole executive duty of preventing and detecting crimes should be thrown upon the metropolitan police, and the magistrates be confined strictly to the passive adjudication of the cases which the police might bring before them. The catching the thief, and getting up of evidence

\* We have before us the Daily Police Report for 29th November last. The number of offenders charged at the nine offices was 70, of whom 27 were remanded for further examination, 27 discharged, and 16 committed for trial, or summarily convicted.

† Blackstone's Commentaries. Book I. Chap. 9.

‡ Mr Traill, Mr Ballantine, Mr Disney, &c.

against him in the first instance, might, in an improved state of the criminal law, be delegated to a particular department of the police, in the same way as, in a later stage of the proceedings, it ought to belong to the office of public prosecutor. There are now many magistrates who very properly decline to act at quarter-sessions in cases where they committed the offender for trial at such sessions; and, by a clause in the Municipal Reform Act, committing magistrates in towns are actually prohibited from so acting. The principle we contend for is precisely the same as that recognised by the Municipal Act. It might perhaps be desirable that the police magistrates should not be entirely divested of the power of granting warrants, but it should be reserved for special cases; and the general rule should be that warrants should be applied for to the metropolitan police, who have now in fact the legal right to grant them, though it is not their practice to do so under present circumstances. It will be observed that the proposed separation of duties would altogether supersede the necessity of having a distinct body of constables attached to each police office, and therefore facilitate the consolidation of those constables with the central police, as already recommended.

The intermixture of duties has an obvious tendency to diminish the public respect for the judicial character. The hunting up thieves is a most useful, but far from a dignified office; and to relieve the police magistrates of it would be a much surer way of securing their respectability, than the raising of their salaries, as some have suggested. The pay, no doubt, should be adequate to the duties; but the public confidence and respect must be obtained by more substantial improvements than either raising the magistrate's salary, or the still more notable expedient of making him wear a wig and gown. We will confess, that we could not resist a smile at the importance attached by two gentlemen examined by the Committee, to the bar-dress. 'I have too much respect,' says one of them, 'for the bar-dress, not to feel a pride in wearing it, whenever I have an opportunity. I think it would add dignity to the Court.' Now, when a particular dress is, by long usage, associated with an ancient office, as in the case of the antique mask of the judges, there is an intelligible reason for continuing it; but it is rather too late in 1838 to begin, for the first time, to decorate the police magistrates with wigs and gowns. It is not the costume, but the conduct of the magistrate,—his firmness, discernment, and freedom from all suspicion of bias,—that are the real guarantees of his weight and character in public estimation. Nor ought the magistrate to be

regarded in the light of a mere lawyer, but as one well acquainted with the world and with human nature;—well versed in the character, the habits, and feelings of the population with whom he has to deal; and able to guide and control them by the influence not only of his legal dignity, but also of his moral superiority.

4. *Want of a more Extensive Summary Jurisdiction.*—The investment of justices of the peace with the power of summary conviction—a power unknown to the old law of England—was the commencement of a new era in our criminal jurisprudence. Mr Justice Blackstone describes it as ‘an institution designed professedly for the greater ease of the subject, by doing him speedy justice, and by not harassing the freeholders with frequent and troublesome attendances to try every minute offence.’ The learned commentator was not, however, without his alarms, from the new institution having been, in his time, ‘so far extended, as if a check be not timely given, to threaten the disuse of our admirable, and truly English, trial by jury.\*’ No such check was given, but, on the contrary, the summary power has, by recent statutes, been very greatly enlarged; and yet trial by jury continues to be used and appreciated as highly as ever. The summary jurisdiction of magistrates, in certain cases of stealing, of injury to property, and of assaults,† as well as under the revenue, game, vagrant, poor, police, and other laws, is now so wide, that the number of offenders imprisoned under summary convictions, greatly exceeds those committed under the sentences of courts. Of 87,245 criminal offenders who entered the prisons of England and Wales in the year 1836, no less than 53,270, or about sixty per cent, were summarily convicted.‡ Taking the inmates of a few prisons selected fortuitously, we find the proportion at a given day to be as under:—

\* Mr Bentham’s account of the change runs thus:—‘Mean-time the exigencies of society had given birth to new courts, in the practice of which the natural mode of proceeding was revived; in particular, the courts filled by justices of the peace acting out of general sessions at their own houses. Courts pursuing the ends of justice, presented an odious and formidable object of comparison and standard of reference, to courts pursuing the ends of judicature. The precedent was alarming; they could not be too anxiously kept under and discountenanced.—*Rationale of Judicial Evidence*, Vol. IV., p. 134.

† See Acts 7 and 8 Geo. IV., c. 29 and 30, and 9 Geo. IV., c. 31.

‡ Second Report of Inspectors of Prisons, 1837.

	Total Number in Custody.	Number of Summary Commitments.
Westminster Bridewell,	286	187
New Prison, Clerkenwell,	196	122
Aylesbury County Gaol,	172	74
Springfield ditto,	238	93
Hertford ditto,	171	89
Maidstone ditto,	303	182*

And we have no doubt that, in prisons used exclusively as houses of correction, the proportion must be still greater. The committals to assizes and sessions in the last year were only 20,984; so that the remainder, after making allowance for those bailed, were imprisoned without ever going before a jury. If, therefore, the summary jurisdiction of magistrates be already so wide, without any apparent prejudice to the institution of trial by jury, there can, we apprehend, be little danger in extending it somewhat further; and we proceed to state briefly the reasons why we consider that the police of the metropolis would be materially improved by such an extension.

The great majority of cases sent to a jury by the police magistrates are those of common depredation, or larceny. The culprits, often mere children, are usually obliged to await their trial in gaol; for it rarely happens that persons of this class can find bail for their appearance at the trial. The gaol, as is well known, is a school of vice; but in it the offender may remain several weeks, even under the present more frequent system of sittings of the Central Criminal Court—and if in the country, several months. When the trial comes on, the lapse of time—the intervention of the Grand Jury—and perhaps some crotchet of the Petit Jury, increase the chances of escape, as the large proportion of acquittals sufficiently proves. The moral effect of the punishment on the bystanders is, in a great degree, lost by its postponement; whereas ‘*culpam pœna premit comes*’ is the only true specific in such cases. Besides which, jury trials entail inconveniences on the parties and their witnesses, and a considerable expense on the public. The only good reason against the decision of such matters on the spot, is the supposed incompetency of the magistrate; but if he is fit to pronounce the decision, then both the public and the individual suffer by the case being sent before another tribunal. ‘Under natural procedure,’ says Mr Bentham, ‘the parties present in court, the first

\* Statement of Mr Ward. Minutes of Evidence, 1837, p. 193.

† Criminal Tables for 1836.



' thing done is to hear the evidence. If the cause affords no evidence but that of the parties, or none but what they have brought with them, then the whole of the evidence is heard at that one time, and the cause is already ripe for decision. To what end send it for decision to any other court? Certainly to no good end.\* Now, no reasonable doubt exists of the fitness of the police magistrates to determine all cases of so common a description as simple larceny. A man is seen to pick a pocket, or rob a shop window, and the thing stolen is found upon him. Where is the difficulty, in fact or in law, in such a case, that should prevent the police magistrate from promptly punishing the offender? The state of the law, as respects summary convictions, is founded upon no rational principle; for, although a man may be punished summarily for stealing a growing tree,† yet, if he steal an apple blown off that tree, or a fagot made of its branches, he can only be tried by a process applicable to the highest crimes. The reason for this is a mere technicality—the one being a *trespass*, the other a *felony*. Nor is it the only instance in which the absurd results of following a technical nomenclature as a guide in jurisprudence are apparent.‡ Whether the mystical name of felony be or be not preserved is very unimportant; provided a summary mode of trial be established for petty offences; and we concur in the opinion offered to the Committee from several quarters, that cases of simple larceny, viz. thefts committed without violence, should be the class selected for extending the jurisdiction of the justices of police. Other offences might at a future time be brought within the same category; but thefts form so prominent a portion of the crimes committed in the metropolis, that the effect of the change, as regards them, would be a very material one. And the necessity of it is strongly corroborated by the fact, that it has become the habitual practice of the police magistrates to deal with cases of larceny by affecting a summary power under a forced construction of some statute,—such as the Vagrant or Local Police Act,—in order to save the expense and inconvenience of jury trials in trifling matters.

\* *Rationale of Judicial Evidence*, vol. iv. p. 144.

† 7 and 8 Geo. IV. c. 29.

‡ 'Where the punishment rises to a certain pitch, the offence is called a felony: below that pitch, it is called a misdemeanour. Without end-  
'less details, any more precise account would be impossible.'—*Rationale of Judicial Evidence*, vol. ii. p. 308. There is, however, a common-law doctrine that felony works a forfeiture, which might properly be abolished in cases of summary conviction for larceny.

Many an offender is sent to prison as a 'reputed thief,' or as 'frequenting such a street with a felonious intent,' when, according to the true meaning of the existing law, he ought to have been either discharged or committed for trial. But the practical effect of this forced application of the law is, we are convinced, so beneficial, that we desire to see the assumed power legalized as well as extended.

The expediency of enlarging the summary jurisdiction seems to be now generally conceded; but some difference of opinion is entertained with regard to the details of the measure—such as, whether it should be limited by the age of the offender and the value of the thing stolen—how far any right of appeal should be allowed—and whether a small jury, say of five, should not be summoned, instead of leaving the conviction entirely to the magistrate. Upon the first of these questions, it must be admitted that the ordinary proceedings of the courts of assize and sessions are peculiarly injurious in the cases of juvenile offenders; and their cost is peculiarly disproportionate where the thing stolen is of trifling value. These considerations induced the Criminal Law Commissioners, in reporting upon the treatment of juvenile offenders, to recommend the extension of the summary powers of magistrates to charges of larceny, where the value of the property does not exceed 10s., nor the age of the culprit fifteen years.\* Before extending this jurisdiction generally, there would, no doubt, be much prejudice to encounter, and the necessity of protecting valuable property might perhaps create some alarm, if it were proposed to withdraw all offenders of this class from the ordinary tribunals; but almost every witness examined before the Committee of last Session was in favour of the extension to all cases of larceny, without reference to age or value. 'The value,' says an intelligent magistrate, 'has nothing to do with it at all: it is a question of the man's guilt or innocence, and it does not matter whether he is guilty of stealing L.10 or 1s. With reference to age, also, I think that does not constitute a legal distinction: for a boy of fifteen has as much right to be tried by an infallible judge, if there is such a thing, as a man of fifty.'† It is not necessary to give an opinion here in reference to the enlargement of the magistrates' powers throughout the country generally; because that question is intimately connected with the subject of local courts; and it is a very different thing to extend the jurisdiction of the county magistracy, who, as at present constituted,

\* Third Report, received 10th March, 1837.

† Evidence of James Traill, Esq. Committee, 1837, p. 41.

are dangerous holders of power; and that of the more regular and efficient tribunals of the police magistrates of the metropolis. The question turns entirely upon the competency of the tribunal; and the fitness of the police magistrates to dispose of all charges of larceny is the best reason possible for intrusting them with that jurisdiction. The best distinction in regard to the juvenile depredators of London would be the empowering the magistrates, in many cases, instead of imprisonment, to order them to be whipped and discharged. In reference to an appeal, the only reason for allowing it is that of satisfying the scruples of objectors; because it is obvious that the appeal involves the necessity of submitting to the erroneous judgment until it is heard, and implies an incompetency in the magistrate, which ought to incapacitate him from acting at all. Nor do we see that any benefit would arise from the assistance of a small jury, at all corresponding to the loss of time which would thereby be occasioned to the jurymen. Still, for the sake of the summary trial, we would concede the point of a jury of five, rather than forego the promptitude of decision.

A great difficulty in the way of magistrates, whether paid or unpaid, is undoubtedly the confused and inconsistent state of the laws which it is their duty to administer. The Criminal Law Commissioners are endeavouring to obviate this by the compilation of a Digest, which, though it might create some new difficulties, would clear away much learned rubbish, and be infinitely preferable to the innumerable statutes, general and local, through which a magistrate has now to wade. The Metropolitan Police Commissioners, to obviate the inconvenience, have in the meantime framed a code of rules for their own men, which, in the absence of any legal code, we understand, works well, and shows the necessity of legal consolidation.

There are several other matters of a civil nature which might be placed under the jurisdiction of the police magistrates, with great benefit to the poorer classes, who are continually applying at the police-offices for redress, and are referred by the magistrates to the courts of law. But every one knows that the expense of an action at law can rarely be less than L.20, and much more frequently exceeds that sum; consequently the courts at Westminster are practically inaccessible to the poor. Since it has been the rule to appoint barristers exclusively to the situation of police magistrates, the police-offices have become very convenient tribunals for the administration of cheap justice, civilly as well as criminally; and if they were placed on an entirely judicial footing, we can imagine no court more fit to deal with the cases of which we speak. The following are instances:—exces-

sive or irregular distresses by landlords or brokers; wilful damage committed by tenants; refusal to quit possession by tenants whose term has expired; unlawful detention of tools, servants' boxes, or effects of deceased persons, of small value; disputes between masters and domestic servants; injuries from dogs and other animals; and various matters of a similar kind, in which applications for relief are constantly made at the police-offices, and, of course, in vain.\* To these may be added the want of power in the magistrates to restore to the owner stolen goods in the hands of third parties, whereby the real proprietor, rather than risk an action, frequently submits to the loss of his property. In all these cases, we cannot anticipate the smallest danger or inconvenience from substituting a cheap and summary remedy for the costly and tardy one afforded by the regular courts. 'For what is a summary mode? It is a mode in and by which an efficient decision is obtained, with a less quantity of delay, expense, and vexation than that which is attached to the other mode, termed the regular. To the use, then, of the regular mode, a quantity of collateral inconvenience attaches, which does not attach upon the summary mode. From this single statement, admitting it to be true, follows a necessary consequence, viz.,—that unless, under the summary, there be some deficiency in respect of the security against misdecision, and that deficiency such, that the mischief of it is of a magnitude to outweigh the advantage obtained by the defalcation from the mass of collateral inconvenience in the shape of delay, expense, and vexation, the existence of the regular mode, be it what it will, is an enormous nuisance. Is the summary mode then attended with any such disadvantage? Is the regular mode attended with any such disadvantage? If so, in what particular respect? What are the arrangements which, being necessary to the giving the completest security that can be given against misdecision, are to be found in the regular, and not to be found in the summary mode? The question is a conclusive one; no answer has ever been—none will ever be given to it. All the wits of all the lawyers would sink under the task.'†

5. *Want of authorized informers, and of peculiar attention to the hindrance of crime.*—It is pretty clear that the best directed penal legislation must, in a great degree, fail of its effect, unless

\* See particularly the evidence of Mr Traill, and the amendments of the Police Acts suggested by him.—*Minutes of Evidence*, 1837.

† *Rationale of Judicial Evidence*, vol. iv. p. 11.

means be taken to secure the observance of the thing required, by enforcing the penalty ordained for its infraction. A penal law loosely enforced is a sort of lottery in which offenders speculate ; and it is remarkable how accurately they calculate their chances of prosecution and escape. The nearer to certainty the infliction of a penalty can be brought, the more powerful will be its influence in deterring from crime, and the stronger its foundation in justice. These considerations seem to have been entirely lost sight of in our criminal system, for the enforcement of the execution of penal enactments is, as it were, nobody's especial business ; it is not committed to the police as a part of their duty, nor is there any recognised authority for the prosecution of the delinquents. The consequence is, that a trade is carried on in laying informations by a class of unprincipled and degraded persons, whose end, of course, is not that of justice, but to fill their own pockets. It is notorious that these common informers, whilst they profess to enforce, do in fact frustrate the law to a considerable extent, by levying hush-money for their connivance at its violation. They often take up cases for the express purpose of compounding them (the act against compounding offences not applying to informations before magistrates), and it is observed that they confine their attention to those offences which have large penalties attached to them, or where the informer is entitled to a fixed portion of the fine. The information trade has consequently become so odious, that parties aggrieved are reluctant to appear in court as informers ; and in this way many offences are daily committed which are never brought under the cognizance of the magistrates.

To remedy these evils, it has been proposed to empower the magistrates to lessen the informer's share of a penalty when his conduct may appear questionable ; to prohibit in all cases the compounding informations ; and to license the informers, or make them give security for costs in case of failure in proof of the charge. It appears to us, however, that the true way of stopping the free trade in informations is to employ, as regular and responsible informers, a branch of that force in whose department the duty properly lies,—namely, the metropolitan police. The office would thereby lose its odium, because the informations would be laid as a matter of regular duty, under the superintendence of the commissioners, and not merely for gain. Perhaps a portion of the penalty might be given to the informing officer, as a stimulus to activity ; but the expediency of this the discretion of the commissioners would best determine.

An opinion was expressed to the committee, that it is rather in the *detection*, than in the *prevention or hindrance* of crime, that

the new police has been found useful;\* and the distinction thus drawn is, we think, correct. The central police has materially increased the facilities for detecting offenders, and the ready assistance it affords is generally acknowledged. It does not act upon that mercenary system, under which it was necessary to bribe the officer, in order to secure his exertions, although it is still, unfortunately, the practice to pay the constables attached to the offices for special services. But the consolidation of the whole police force of the metropolis, as above recommended, will go far to extinguish this corrupt system. What we consider a prominent defect in the proceedings of the central police is, that 'flash-houses,' as they are termed, continue to exist in all parts of the metropolis, where thieves congregate, conceal themselves when necessary, and meet receivers of stolen goods. The premises of these receivers are not sufficiently searched; and it might be desirable that the higher classes of police-officers should be armed with authority to search, in the nature of the writs of assistance used by revenue officers, to prevent the delay of applying for a magistrate's warrant. There are persons also who regularly seduce, and instruct youth in the ways of crime, and who pursue their abominable vocation with little, if any interference on the part of the police. The officers should be legally invested with a power (which they often find it expedient to assume without law) of apprehending, without a warrant, all persons whom they have just cause to suspect of evil designs. The idea of any danger to popular liberty from the exercise of such power by a well-organized police, is perfectly chimerical. There is also a class of places resorted to by the rich, as well as the poor, the better regulation of which would have a decided tendency to improve the morals of society. We refer to the gaming-houses, brothels, and various unlicensed places for drinking or amusement, open chiefly at night, with which the metropolis abounds. Places of this description can at present only be prosecuted by indictment; whereas they ought to be brought under the summary control of the police magistrates, by enabling them, at their discretion, to fine persons keeping or using such establishments. The French legislature has taken the bold step of enacting that no gaming-house shall legally exist in France after the year 1837. It remains to be seen how far the 'hells' of Paris will really be suppressed by this strong measure. We fear that, whilst a disposition for play pervades the higher classes, it will be difficult to check the gambling-houses effectually, either in London or Paris. Still,

\* Evidence of E. G. Wakefield Esq. Committee, 1837, p. 121.

by vigilance on the part of the police, and the exercise of a sound discretion by the magistrates, some of the lower class of 'hells' might be rooted out, and many a servant, or small tradesman, saved from ruin. Again—although the only effectual preservation of public morals consists in sound moral education—and the result of absolute prohibition of immoral places of resort has, in other countries, been too often found to give rise to a system of concealment which has led to worse crimes,—yet, the openness with which female prostitution exhibits itself in our metropolis, might be easily restrained within more decent limits, instead of being permitted to disgrace the public places of amusement resorted to by modest women.\* And if all other places of resort of an ambiguous description were subjected to the summary jurisdiction of the magistrates, and the constant visitation of the police constables, no doubt can be entertained that a large proportion of the crimes, which originate from such irregular haunts, would not be committed. The object is to prevent the noxious seed from being sown; but if it has once entered the earth and taken root, it is too late for *prevention*. We have then to eradicate the poisonous weed as we may.

6. *An erroneous system in regard to Bail.*—'The nature of 'bail,' says Blackstone, 'is a delivery or bailment of a person to 'his sureties, upon their giving, together with himself, sufficient 'security for his appearance; he being supposed to continue in 'their friendly custody instead of going to gaol.'† That it is founded in a humane principle we will not dispute,—nay, we approve entirely of the recent extension of the magistrates' power of taking bail to all cases of felony. But we think the effect of the law has not been sufficiently considered, which requires sureties to be produced in a multitude of cases wherein the offenders are wholly unable to find them, and in default, subjects the parties to imprisonment. For instance, a person taken into custody by a police constable after the magistrates' office is closed, is brought to the station-house, and (although there is a power in the Police Act in cases of petty misdemeanour) the constable on duty will not, as a general practice, take the personal recognisance of the party for his appearance, but he is obliged to re-

\* We cannot here enter into details to show of what nature ought to be the interference of the police in regard to public prostitutes, but some useful lessons may be learned from *Parent-Duchatelet's* valuable book, '*De la Prostitution dans la Ville de Paris.*'

† Commentaries, vol. iv., book iv., c. 22.

main in the station-house for the night, until the morning sitting of the magistrates, amidst all the evils and inconveniences of that place already described.\* Now, considering the nature and motives of many of the charges made at the station-house, and that a great proportion of them are never followed up by the prosecutors, but are made in a moment of excitement without any sufficient grounds, a large amount of unnecessary suffering is caused which might be dispensed with, if the party making the charge were invariably required to enter into his personal recognisance to appear and prosecute before the magistrate; and upon refusal of the charging party so to do, then, if the constable on duty were empowered to take the *personal* recognisance of the party for his appearance in the morning before the magistrate, in all cases, even of felony, except those of a very grave nature. We say *personal* recognisance, because not only is the chance of the offender's decamping often improbable, but the refusal of the charging party to give his recognisance to prosecute must always raise a strong presumption that the charge is frivolous. It must, therefore, be assumed that the officers placed at the station-houses consist of men of adequate discernment to distinguish the class of offenders who ought properly to be debarred from the privilege recommended. But even if an offender should now and then escape, the evil would be less than that of the present needless confinement of a number of persons every night, *and the whole of every Sunday*,\* in the station-houses; and we are glad to see that the police magistrates examined before the Committee, agreed unanimously in their sense of the evils of the present practice.

The evil noticed is, however, as nothing when compared with the mischiefs resulting from a state of law which, in a vast number of cases, requires petty offenders to find sureties, either for their appearance at the trial, or for good behaviour, and in default, consigns them to *the common gaol*. Now, not only is it a common occurrence, that individuals in the upper and middle ranks of society are thus incarcerated for want of time to make the requisite arrangements for procuring sureties; but the situation

\* Evidence of Messrs Hardwick, Traill, and Ballantine.—Committee 1837.

† In Mr Bentham's opinion, Sunday should be a justice-day like all others. We do not at all events see that it would be any desecration of the Sunday, if a police magistrate were to sit at each office in the early part of the morning, to dispose of as many as possible of the Saturday night charges. It would be a work of humanity if not of necessity



of the great majority in the humbler walks of life is such as to render the procuring of bail a thing to them next to impracticable.\* There are persons to be seen in our prisons who have been there, not months only, but years, for want of sureties to keep the peace, on account of a drunken row, or a family quarrel. In a *gaol* there is no corrective discipline or obligation to labour, as in a house of correction; and under the present system of prison management, offenders for bail, like the untried, live in association,—the unfortunate prisoner who has previously led a blameless life, of whatever age or sex, being obliged to mix indiscriminately with a large company of persons, among whom are to be found some of the filthiest of mankind, and the most hardened of offenders. That such intercourse has a direct tendency to the promotion of crime is perfectly obvious; and many of the bail cases are not only full of hardship, but of downright cruelty to the parties, and wastefulness of the funds of the country. We cannot help quoting the following instances of offenders found in *gaol* for bail only, being well assured that (with the exception of the one last mentioned) they are by no means rare or peculiar.

‘J. C. in Clerkenwell prison, aged 17, committed for want of bail on charge of an indecent offence with a man who gave bail, but it was expected would not appear at the Sessions. *The boy, however, remained in the mean-time in prison.*

‘S. S. committed to Westminster Bridewell, first to the house of Correction department with hard labour for three months, and afterwards to the *gaol department without labour*, for twelve months, for want of bail.’ The absurdity of this is too glaring to require comment.

‘H. S. a female *in a state of derangement*, had been in Aylesbury *gaol* seven months for want of bail.

‘J. A. an idiot, in Springfield *gaol*, for want of bail.

‘D. A., aged 50, has been in Chelmsford *gaol twenty-two years* for want of bail, to keep the peace *towards his own father*. He is regularly employed in the service of the prison with his own consent, and has even been sent on errands into the town. *His situation is so comfortable that he appears to have no wish to leave it.*

We have no hesitation in saying it would be preferable to discharge on the spot the whole of the persons now incarcerated in the metropolitan *gaols* for want of bail, than to continue the pernicious system of an imprisonment in no degree penal or reformatory, and almost infallibly corrupting. It is not necessary,

\* See second Report of Inspectors of Prisons, Home District, 1837.

† Statement of John Ward, Esq. Minutes of Evidence, 1837, p. 192.

however, to go that length. In regard to those individuals against whom there is proof of a breach, or threatened breach of the peace, and who, in default of sureties, are now committed to the common gaol, for long definite or indefinite periods, an obvious improvement would be to empower the magistrate to sentence them *for short periods to the House of Correction*; or, at his discretion, to take their personal recognisance for good behaviour. Many of those also, who are now called on to find sureties for appearance at the sessions, might safely be let go upon their own recognisances, and the lesser evil, would often be to run that risk. We should hope, however, that by increasing the summary jurisdiction of the magistrates as before proposed, the number of this latter class would be materially diminished. The general proportion of prisoners owing their imprisonment to the bail system is, we think, greater than is commonly supposed; for, on turning to the official report of Clerkenwell new prison (the great receptacle of this class for the county of Middlesex), we find the numbers on the day of inspection were:—

Under examination	52
For bail . . .	122
For trial, &c. .	22

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Another defect in the bail system is, that although the magistrate can take bail for any felony or misdemeanour when the depositions are complete, he cannot do so previously, and is consequently obliged to remand the offender to prison until further examination. This remanding frequently takes place several times successively, and the prisoner, in the mean-time, perhaps for many weeks, undergoes the miseries of a gaol, although the result may be that there is not sufficient evidence to warrant a committal. This defect might easily be remedied by giving the magistrate the power of taking either sureties, or, at his discretion, a personal recognisance, as soon as the offender is before him. We trust that the whole law as regards bail will undergo the serious revision it requires. The enactments, we know, are various and multiplied; but, as in other matters, reform will not be found difficult, when the need of it is clearly brought under the cognisance of the legislature.

7. *Want of a public prosecutor.*—It does not require any long study of jurisprudence in order to discover that no system of criminal judicature can be complete, which does not comprehend a Public Officer charged with the duty of bringing offenders to justice. In Scotland this important office is exercised by the Lord Advocate and his Deputies, whose business it is to attend to prosecutions on behalf of the crown. But, in England, the wisdom of our ancestors has not provided any such public functionary, consequently the prosecution of crime is the business of nobody but the injured individual. The person who is already the sufferer is obliged to undergo the further hardship of attending the police magistrate, during, perhaps, several examinations previous to committal—afterwards to go before the Grand Jury—and lastly to appear as a witness on the trial. A great loss of time is thus entailed upon him, to say nothing of vexation and expense, with no corresponding benefit to himself individually, the offence being in reality against society at large; whilst the placing the prosecution in the hands of a private individual seems to assume that he is the only party benefited by the conviction of the offender. That the imposition of this burden upon the aggrieved individual has a tendency to prevent many offenders from being brought to justice, cannot be doubted.\* The reluctance of prosecutors is generally very great; and it has been remarked by an experienced officer, that there are very few persons who have gone through a criminal proceeding that would ever complain a second time; and that nineteen out of twenty persons who have encountered the ordeal of examination and re-examination at the police-office, thence before the clerk of the Central Criminal Court taking the notes for the indictment, thence to the Grand Jury, and thence before the Petty Jury, would never be found to undergo it again.† Prosecutors are in fact either novices in that occupation, or are actuated by feelings of a vindictive nature, than which nothing can be more objectionable. Nay, the circumstance of the same person appearing as prosecutor and witness cannot but expose his testimony, in many cases, to suspicion; for even if he harbour no desire of vengeance, no man likes to fail in an undertaking carried on under the eye of the public. A man cannot be both plaintiff and witness in a civil action;—why should he be per-

\* The average number of offenders annually discharged at assizes and sessions in England and Wales during the last three years, for want of prosecution only, has been 400. (Criminal Tables, 1834, 5 and 6.)

† Evidence of J. Hardwick, Esq. Minutes, 1837, p. 56.

mitted to be so in a criminal one? Because, say the lawyers, the indictment runs 'against the peace of our Lady the Queen.' But we would humbly submit the propriety of employing, not the witness, but a proper legal officer, to conduct her Majesty's business in this department.

We have already suggested the vesting in a branch of the police the duty of getting up the evidence requisite to obtain a committal, or summary conviction, by the magistrate. Whether this preliminary duty should be superintended to any, and what extent, by a public prosecutor, or whether his functions should commence after the committal by the magistrate, is a matter of detail which we are not called upon to determine. But the establishment of such an officer does appear to us to be essential to the due administration of justice in England; and more than ever so, since the law came into operation which allows prisoners the benefit of counsel. Cases are continually lost, where the evidence is perfectly clear, from the want of some person to look after the prosecution; and so much has this want been felt, that it is now the practice of the chairman of the quarter-sessions in the West Riding of Yorkshire, to direct the clerk of the peace to prosecute every case of felony which comes before him; \*—an example which indicates plainly enough the little reliance to be placed on individual prosecutors, and the necessity of vesting so important a trust in a responsible public officer. In its effect on the prevention of crime, the very fact of certainty of prosecution could not but operate favourably, by removing one of the main chances now to be calculated on in favour of a criminal's escape. And it is needless to say, that, in the metropolis, this effect would be proportionably greater than in the less populous districts.

8. *The Grand Jury Obstruction.*—Before the abolition of this tribunal, there would be much prejudice to encounter, and it would be premature to attempt it, until the office of Public Prosecutor should be established. But we have no hesitation in saying, that its operations, in their effect upon crime, are often mischievous, because they add a chance of escape to the many others which combine to frustrate the exertions of the police. As a security to individual liberty, the tribunal is of very little use, because, even if the committing magistrate should have acted oppressively, the remedy offered by the Grand Jury comes too late to prevent the intermediate imprisonment. The inten-

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\* Evidence of James Traill, Esq. Minutes of Evidence, 1887.  
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tion of a Grand Jury was the laudable one of saving an innocent man from the disgrace of a trial, without a *prima facie* case of evidence against him. But Grand Juries existed much earlier than the practice of taking examinations by justices of the peace, who did not regularly exercise their present powers of committal until towards the end of the sixteenth century. From that period, the Grand Jury has become an ordeal of very doubtful advantage; and more especially in the metropolis, since police magistrates have been appointed, whose proceedings, if not always infallible, are at least conducted with caution and regularity. We will venture to say that no event happens more rarely in the course of the year than the case of an offender committed for trial by a London police magistrate, who is not in truth a guilty man. If, then, it may be confidently assumed that there is a presumption of guilt associated with the magistrate's committal, to what end send the offender before another tribunal previous to trial? Not to save him from prison, for he remains there in the intermediate time. Not to prevent the publicity of his misconduct, for that has already been made notorious by the inquiry before the magistrate. Not to afford him an opportunity of clearing his character, because the proceedings of the Grand Jury are secret, and when an offender is discharged by their instrumentality, nobody knows the reason of such discharge. If a foreign jurist, wholly unacquainted with English practice, were, for the first time, to be informed of the nature of a Grand Jury, he would assuredly be at a loss to discover the object of an institution offering such ready means of defeating justice. The following extract from the evidence of Mr Gregory will illustrate how this is done:—

‘If the party is committed to prison, and the prosecutor and the witnesses go before the Grand Jury, they get hold of the leading witness and give him a bribe of five pounds, or ten pounds, or fifty pounds. The Grand Jury not being in possession of the depositions before the magistrates, the witnesses give evidence before them as directly contrary to what they have given before the magistrates as light to dark, and then the Grand Jury ignores the bill.

*Lord Hotham.*—Do you mean to say they give the witness a large bribe to stay away?—No; for contradicting the evidence. Supposing you are robbed, and when you come before the magistrate you say, “There is a particular shilling, or a particular half-crown, or handkerchief, I can positively swear it is mine;” then, if you are got over by a bribe from the prisoner, when you go before the Grand Jury you say, “I cannot identify any of this property; I cannot swear to any one article, and I will not.” . . . I have been upon the Grand Jury several times, and I have heard witnesses give their evidence before the magistrates, and come before the Grand Jury and flatly contradict what they have stated.

Then the practice of which you complain is a frequent one?—Yes; the magistrates only commit upon clear cases, and yet every session there are ten or twelve bills thrown out by the Grand Jury, and it is done in that sort of way.\*

This statement is fully borne out by the proportion of bills annually ignored by Grand Juries, which, according to the Criminal Tables, is above 7 per cent for England and Wales, and above 8 per cent for London and Middlesex; as appears by the subjoined summary, which may also be useful to be kept in mind in reference to what has been said upon other parts of our subject:—

*England and Wales.*

	Offenders committed for Trial at Assizes and Sessions.	Convicted.	Insane.	Acquitted on Trial.	No Bill found.	No Prose- cution.
1834, .	22,451	15,955	21	4347	1695	393
1835, .	20,731	14,729	25	4034	1526	417
1836, .	20,984	14,771	31	4039	1652	491

*London and Middlesex.*

1834, .	4,037	2,850	6	800	343	38
1835, .	3,442	2,308	6	786	309	35
1836, .	3,350	2,327	7	666	296	54

These considerations appear to fully warrant the conclusion, that the Grand Jury is, in truth, very often an obstruction in the way of bringing criminals to justice; and that in the great majority of cases, if not in all, its abolition would be desirable, whenever the institution of a Public Prosecutor may be determined on. Whatever respect the public may entertain for the institution as an ancient constitutional tribunal, it should not be forgotten that the tribunal is a *secret* one; and consequently possesses a power of injuring either an individual, or society at large, in a manner equally inconsistent with the spirit of the rest of our judicial institutions, and repugnant to that principle of responsibility, without which no system of judicature can ever be free from the suspicion, if not the actual taint, of impurity. The phrase 'constitutional' is worse than unmeaning when used for the purpose of raising a prepossession in favour of institutions which have become mischievous, in the existing circumstances of society.

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\* Evidence of Mr Rd. Gregory. *Minutes*, 1837, p. 177.

If we have succeeded in pointing attention to many important matters in which the present system of metropolitan police is defective, it has been far from our design to undervalue the very great benefit which the metropolitan district has derived from the central establishment. We have not thought it necessary to enter into details as to the mode of rating, to which objections for a time prevailed, because it appears to us impracticable to adopt any other principle than that applied to the poor-rates; and the enquiry is the less requisite, since we are happy to observe that the popular clamour upon the subject has entirely subsided. There is not one of our recommendations, but what is supported by the concurrent opinion of intelligent and experienced witnesses examined before the Committee. As constantly happens, some most absurd speculations were broached there—such as this—that the close inspection of the police, and the enlarged summary jurisdiction of magistrates, have tended to the promotion of crime; and that the increase of juvenile offenders in particular, is thus to be accounted for.\* A more preposterous doctrine we never remember to have heard. Surely, the slightest reflection must have suggested the truth, viz.—that the superior vigilance of the central police, and the greater facilities of administering summary punishments, have of late years detected a great number of offences, which, under the old *regime*, would never have seen the light. To suppose that a sure and speedy administration of justice can tend to foster crime, is an idea wholly at variance both with reason and fact. The medicine which helps to throw out the eruption on the skin, is mistaken for the disorder of which the eruption is the offspring. A vigilant police, and a summary system of punishment, bring out crimes upon the surface of society; but who shall say how many times the law would otherwise have been violated with impunity? It is something monstrous to charge preventive justice with forwarding crime, because its office is executed with a degree of efficiency before unknown. Such errors are propagated chiefly by the total want of reflection on the subject; and perhaps, in some measure, by the want of a public record of offences, ascertained to have been committed by persons unknown. The want of such a record is a serious defect in our criminal statistics, for without it not even an approximation to the real state of crime can possibly be made.

The real extent of crime in the metropolis is a most interest-

\* Evidence of Rev. J. Ousby. Minutes, 1837, p. 167.

ing subject of enquiry ; but there are, unfortunately, no statistical data by which it may be determined with any sort of accuracy. The average number of offenders committed for trial at the Central Court and Quarter Sessions, in London and Middlesex, in the last three years, has been 3609 yearly ; but as this does not comprise the summary commitments, it is no guide at all. The number of prisoners (exclusive of debtors) confined in the course of the year ending Michaelmas, 1836, in the several metropolitan prisons, viz.: Coldbathfields, Clerkenwell, Newgate, Giltspur Street Compter, the City Bridewell, the Westminster Bridewell, Horsemonger Lane, Brixton, and the Borough Compter, appears to have been about 35,000 ;\* but from this number a considerable deduction must be made, in respect of the same prisoners recommitted within the year, and for those removed, after committal or sentence, from one prison to another. Allowing 10,000 on this account, there will remain 25,000 offenders detected in the year ; and, taking the population of the metropolis, in its widest sense, at 1,600,000, it appears that one in every 64 persons is to be set down as a criminal ! Nor is the prospect of improvement very hopeful, since it seems that the number of boys under 16 committed to the six first-mentioned prisons was, in 1835, 2675 ; and in 1836 it had increased to 3132 !† That the habitual proportion of offenders in the metropolis should even approximate to 1 in 64, is a most painful consideration ; and offers a wide field for the labours of the jurist—the political-economist—the philanthropist—of every man who has the head and the heart to do good to his species. How often must it be reiterated that ignorance and poverty are the primary causes of delinquency ?‡ How often repeated, that our system of secondary punishments requires a thorough revision—that our prisons are nurseries of vice—hotbeds of crime ?

\* Returns in Second Report of Inspectors of Prisons, Home District, 1837.

† Second Report of Inspectors of Prisons, Home District, 1837. We rejoice to hear that the intended General Reformatory in the Isle of Wight, for juvenile offenders, is in a state of forwardness.

‡ The proportion of offenders committed to assizes and sessions, in the last year, who could neither read or write, or could only do so imperfectly, was for England and Wales, 16,202, or 77 per cent, and for London and Middlesex, 2896, or 86 per cent.—*Criminal Tables*, 1836. In France, out of 4222 criminals subjected to punishment by the higher courts in 1833, 3777, or 89 per cent, belonged to the classes either wholly without, or who had received only the lowest degree of instruction.—*Transactions of Statistical Society of London*, vol. i. part 1.



The description of the metropolitan prisons contained in the Second Report of the Inspectors for the Home District, presents a deplorable picture of the evils resulting from gaol-association, and strongly confirms the opinion of the indispensable necessity of the individual separation of prisoners, previously urged by the inspectors—advocated by this Journal—and now, we rejoice to say, officially recommended by the Secretary of State. If the magistrates should,—as we confidently hope they will not,—neglect or refuse to introduce ameliorations which are called for alike by good sense and humanity, it may become the duty of the Government to enforce with the full weight of its authority, the adoption of a right system of prison management. A sound system of prison discipline is an essential auxiliary to an effective police; and such a police we by no means despair of seeing perfected in the metropolis, as well as extended to the rural districts. The country owes much to Mr Hawes for his zealous and well-timed exertions in Parliament to this end. It is gratifying that these are subjects which may be approached by Whigs and Tories without party strife, and with a united effort for practical reform. Let them persevere in their useful labours;—in the amount of human suffering removed from present and future generations, they will find their ample reward;—they are cultivating not a barren field of ephemeral gratification, but a soil capable of yielding abundant, and never failing, harvests of good!

We cannot conclude without a word upon a point intimately connected with the preceding, and all other branches of criminal jurisprudence in these kingdoms; we mean the necessity—growing every day more urgent—of some superintending authority, analogous to the Minister of Justice in France, whose exclusive attention shall be given to every department of the administration of the criminal law, and whose especial province it shall be, not only to watch over its execution, but to forward its reform. Every one who is at all aware of the multiplicity of business with which the Home Office has for some time past been pressed, will at once understand how impossible it is for a Secretary of State to go through his indispensable Parliamentary duties, and yet to devote adequate time to so important matters as those of Police, Prison Discipline, Transportation, and the whole subject of Secondary and Capital Punishments. We are far from insinuating any want of diligence in the noble Lord now at the head of the Home Department;—on the contrary, it is surprising to us that he has found time to do as much as he has done in this respect; but practical measures of great moment

ought not to be postponed to topics of more political or party interest perhaps, but of much more speculative advantage. Whilst a moderately-reforming Ministry is engaged, night after night, in parrying the thrusts of the Tories on the one side, and the ultra-reformers on the other, subjects of the most grave and complicated nature are delegated, one after another, to Parliamentary committees, who examine witnesses—make a report—and there the matter ends. A curious and instructive return might be made of the lost labours of Select Committees of both Houses for the last twenty years; nay, the time occupied by their enquiries has oftentimes been worse than lost; for it has sometimes had the effect of shifting the responsibility of organizing reforms from the only quarter capable of pursuing them with effect—namely, the Government. Hence, a strong opinion is beginning to be entertained, that either a regular Minister of Justice is required, or a Central Board, acting (like the Poor Law Commissioners) in some degree under the Secretary of State, but invested with sufficient power for the regulation and management of the police, the prisons, and all branches of the penal system, without the necessity of constant reference to the Home Office. We venture to predict, that many years will not elapse before the establishment of some such authority is found indispensable; and, although the present want of it ought not to be an excuse for any member of the legislature relaxing his individual exertions for the good of society, the deficiency, until supplied, cannot but impair the efficiency of the executive, and operate injuriously to the public service.

ART. V.—*Patience and Confidence the Strength of the Church : A Sermon, preached on the Fifth of November before the University of Oxford, and now published at the wish of many of its Members.* By the Rev. E. B. PUSEY, D.D., Regius Professor of Hebrew, and Canon of Christ Church. 8vo. Oxford: 1837.

THAT times are coming upon the earth, we know not ; but the general expectation of persons of all character in all nations is an instinct implanted by God to warn us of a coming ' storm.' So says Dr Pusey ; and assuredly, to the other ' fig-tree ' signs which announce approaching changes, he has added one of no insignificant character. That a sermon should have been preached before the University of Oxford, on the day appointed for the remembrance of the deliverance of England by the Revolution of 1688, in which the preacher reversed the precedent of Balaam, and mounted the pulpit to curse, where he was appointed to bless—in which the great work of our forefathers is plainly denounced as a sin, and held up as deserving of national humiliation, instead of thanksgiving—is a phenomenon of importance and interest to those who watch the course of events. The place, the occasion, the dignity of the bold innovator, and the assent of a large portion of his congregation, implied in their request for the publication of the sermon, command an attention very different from that which might have been excited by a mere expression of sentiment from an insulated individual.

The contingency of the last 5th of November falling on a Sunday, and its service being thus attended by numbers for whom the celebration of the political festival would have had no attraction, afforded undoubtedly a strong provocation to preachers whose zeal against the wickedness of modern governments was ready to boil over on the first opportunity. Accordingly, that day seems to have been selected for a simultaneous pulpit-attack, from the ecclesiastical high places of England and Ireland, against her Majesty's Ministers and Commons,—although it must be confessed that the onslaught bore little appearance of concert ; for while the right wing, posted at Oxford, was directing its artillery against the Whigs through the sides of William III., the left, at Dublin, was battering the Catholics through those of James II. ;—both, however, agreeing in letting off an occasional volley at Guy Fawkes, whose shade must have been surprised and gratified at the participation of such eminent associates in his annual martyrdom. But with the greater part of Dr Pusey's

sermon on that occasion, we have no concern; much of it is beautiful as well as appropriate; and if it be true, as he alleges, that the doctrine of non-resistance to established authority is one which meets with little practical attention at the present day, it is at least one which no sincere believer will endeavour to controvert or to evade. We merely wish to express our sentiments on the last part of it—the application of that doctrine to the question of the Revolution—a portion of his subject which the author has but briefly touched in his sermon, but which he evidently considers as the prominent point in it,—judging from the long justification which he has attached to it in the shape of a preface.

‘And now, perhaps, we may the more readily learn our lesson from that other event, for which we this day render to God thanksgiving, the arrival on this day of him who became William III. Man’s sin is no hinderance to thankfulness for God’s mercy; rather, the more we sinned, the more should we be thankful to God for not giving us over to our sins, for making that, as it now is, at last legitimate to us and our duty, which in our forefathers was sin, yea, and for the chastisements with which he has visited our sins. The arrival of William was in itself, on God’s part, a blessing; it was not, we may trust, on that of the prince, a guilty act; at all events we may separate the mercy of God from the sin of man; it prevented further acts of tyranny on the part of James; it probably saved the nation from the miseries of anarchy and civil war, which, but for his arrival, had men pursued the same course, might have followed; and in this the church and nation might have been grievously injured; and for this, and for the preservation of our church amid this convulsion, we have great cause of thankfulness.’

But

‘It is not without an apparent providence that these two events are so brought together upon the same day, the one in which, without his own merit, man was passive, and God delivered him from extremest peril; in the other, where, had men, like our bishops and a confessor of this place, remained passive under the shadow of God’s wing, the tyranny had passed over, man interposed schemes of his own; they did that, which our Lord upon the cross was taunted to do, but did not; they “sinned themselves,” and so they were permitted to mar the good purpose of God. I say “mar,” for though God has been abundant in mercy, no one can have traced the state of our church and nation, since that second rebellion, without seeing God’s judgments, though tempered with mercy. Let any one ask when was the golden age of our divines? All will say the reign of Charles II., when their passive virtues had been called out, and they exercised by suffering. The last century, every one as readily condemned as the deadest and shallowest period of English Theology and of the English Church. And this could be traced, were this the place, to the line which men took in resisting James’s evil. The state feared and hated the Church, which it causelessly suspected; it

could not understand that men might on principle object to the act which set the sovereign on the throne, and yet upon principle obey, yea, teach others cheerfully to obey the sovereign whom God had permitted to be so placed. It ejected a valuable portion of her members, the nonjurors; divided, and so weakened her; cut off from her one element of teaching; gave her bishops for secular ends, and profaned her offices to strengthen secular parties; wilfully corrupted her, and stirred up enemies against her and our holy faith. As clearly could it be shown that the present storm, which lowers around our Church and State, is but a drawing out of the principles of what men have dared to call the "Glorious Revolution;" as that revolution (though in this portion of our country, by God's mercy, without bloodshed, as indeed, besides his other mercies, he generally restrains men in a second revolution, by an implanted instinct, from renewing the miseries of the first) was the sequel and result of the first rebellion. The name given to the act of 1688 is no question of words; the service of this day evinces the feeling of the Church that it is not indifferent to God how we look back upon his dealings with our forefathers: if we would not be partakers of other men's sins we must disavow them; while we boast of them, we make ourselves sharers in them; if we would cut off the curse entailed by the fathers upon the children, we must disclaim the act which has entailed it; we should thankfully acknowledge God's undeserved mercies, not glory in our fathers' sins, so may he exempt us from the impending chastisement.'

Strange as such sentiments appear to Englishmen, and have appeared ever since the name of Englishmen became a title of honour among the nations, it will not be imagined that we are about to make solemn charges of sacrilege and heresy against Dr Pusey and his admirers on account of them. The Revolution has for us no more sanctity than any other great political act of which the consequences still survive: the State, by fencing it round with an imaginary sacredness, and intruding the commemoration of it into the solemn service of the Church, did, in our opinion, nothing more than provoke mocking and encourage hypocrisy. To see its principles attacked in fair and open controversy excites no scrupulous horror in us; and it is always agreeable to see the opinions of any class of reasoners fairly pushed to their legitimate extent, without any regard for mere appearances, or scruple at offending the consciences of less thoroughgoing brethren. Above all things, we would disclaim all foolish sneers against the loyalty of the party whose sentiments we have now to consider. To charge its leaders with a desire to disorganize the established connexion of church and state, from mere dislike to the principles on which the latter is now administered, would be, we are well aware, to cast a very unjust imputation on them;—whatever we may think of the possible dangers

to which their views might expose that connexion, if carried fully out by ardent and unflinching partisans ;—for Sacheverell, too, stickled for non-resistance, and his mob illustrated the doctrine by ‘destroying meeting-houses, plundering the dwelling-houses of eminent Dissenters, threatening to pull down those of ‘the Lord Chancellor and other Whigs, and preparing to attack ‘the Bank!’ Still, many of those views, and especially such as are contained in this Sermon of Dr Pusey’s, are daring novelties. It is true, that they exhibit only a return,—such as is ever taking place in the revolution of human affairs,—to ancient notions and principles, long since entombed with their zealous supporters ; but when this ‘whirligig of time’ brings us round again to the very same point which public opinion had reached some centuries ago, the old doctrines are become new *to us* ; and this is the only sense in which any thing in politics can be said to be a novelty. For in matters ecclesiastical and civil, there is nothing strictly new under the sun. The democrat, whom we call an innovator, can appeal to his own favourite authorities,—to the States of Italy in the middle ages, and to those of classical Greece long before,—for precedents to countenance his boldest flights. So it is with the doctrines of divine right and passive obedience. They were in favour, it should seem, under Nebuchadnezzar and Darius the Mede. In England, they ‘skulked in old homilies,’ to use a phrase of Bolingbroke, ‘before King James I. ; but were talked, written, and preached into vogue in that inglorious reign.’ In 1622, the University of Oxford solemnly sanctioned them ; and, by a noble stretch of her principles of discipline, enacted that all persons promoted to degrees, were to subscribe articles to that effect ; and to take an oath, that they not only at present detested the opposite opinion, but that they *would at no future time entertain it!* In 1683, the same University again proclaimed them by a ‘solemn judgment and decree,’ which, in 1709, the House of Lords was ill advised enough to condemn unanimously to the flames. But, by an unusual circumstance in human affairs, the burning of the decree by no means promoted its popularity ; and the doctrines in question went so quietly to sleep, that he who now arouses them from their century of oblivion may fairly be termed an innovator. As such, we recommend him to the grave rebuke of that learned body whose repose he and his confederates disturb by their new-fangled conceits. Our concern is with the truth of his doctrines only ;—the doctrines of one of the ablest, certainly the most learned of the writers of his party, on a subject not of mere historical interest, but applicable to every time, and perhaps in an especial manner to our own. We must therefore buckle on once more the armour of our old Revolution prin-

ciples to meet this fresh antagonist;—armour which has stood the buffets of an hundred and fifty years too well to be now laid aside at the first blast of a hostile challenge, even though wafted from the cloisters of Oxford.

Although the doctrine of *non-resistance* to *established* authorities, and that of the *divine right* of princes (that is, of an inherent right to govern, independently of the powers which the municipal law of each state confides to them), are quite distinct in character, yet they are often strangely confounded together both by the advocates and opponents of popular rights: they are so, in an especial manner, in the sermon now before us. The first rests on the express command of God, written in the Book of his Law, and not less plainly written on the enlightened reason of man. The latter appears to us a mere figment of human invention—repugnant to reason—without the shadow of authority in the word of God—unwarranted on any fair construction of the language or practice of the early Church. It is this unnatural union of the false with the true, of the living principle with the dead, which caused in our view the religious errors of the Non-jurors, in their day, and of Dr Pusey in our own.

The doctrine of non-resistance to established authority is, we need not say, most strikingly declared in Scripture, from the total absence of all qualification and adaptation to the weak faith and cherished prejudices of the natural man. ‘Whosoever resisteth the power, resisteth the ordinance of God.’ ‘Ye must needs be subject, not only for wrath, but also for conscience sake.’ ‘Submit yourselves to every ordinance of man, for the Lord’s sake.’ And we cannot refrain from observing, however trite the remark may appear, that few portions of the moral law of the Gospel bear more emphatically the mark of inspired and not human wisdom. First, because no precept could be devised more unacceptable to the pride, and less likely to attract the imagination of man. How many devices of worldly wisdom, how many false systems of worldly honour and morality, how many rebelling impulses of the heart are crushed by this stern command! How vain is the endeavour to evade or to explain it away, and find shelter under it for those heathen notions of manliness and nobleness of character, of which we are so loath to divest ourselves! Next, because it is at once contrary to that current morality of the world (which is a mere reflection of true principle, and that rarely without distortion), and, at the same time, palpably true to the perception of the mind which has been once opened to religious instruction. To the mere worldling it seems poor and ignoble; to the sense of the religious man it has at once the clearness and the beauty of a light revealed from heaven itself. No

impostor would have stamped so unpopular a truth with the seal of a pretended divine authority. And how perfectly does it agree with the remaining symmetry of that great edifice to which it belongs! In the beautiful language of Dr Pusey himself (not in his Sermon, but in the Preface which accompanies it)—‘It is only the particular application of a general principle. In religion it is faith; under misfortune, resignation; under trial, it is patient waiting to the end; amid provocation, it is gentleness; amid affronts, meekness; amid injuries, it is endurance; towards enemies, non-requital; towards railing, it is “not answering again;” to parents, it is filial obedience; to superiors, respect; to authorities, unquestioning submission; towards civil government, it is obedience upon principle, not only when it costs nothing (as obedience to it ordinarily does not, and so can hardly be called the fulfilment of a duty), but when it costs something.’

Every human commission is, therefore, ratified by the divine precept of obedience to it, and ‘every power that is,’ however derived, is ‘ordained of God.’ But resistance to violence on the part of those armed with no authority—enjoying no commission—cannot be drawn within the plain limits of the precept. It cannot be condemned, except upon such arguments as would take away the right of resistance to all violence whatever. Now we, in common with all supporters of the Revolution, contend, that no rational difference can be shown to exist between opposition to force offered by one exercising it, without any authority, and by one exercising it beyond the authority with which the laws intrust him. It cannot be answered, that it is the duty of the Christian to obey without examining the validity of the pretended authority. It is no doubt true, that it will not become him to make captious objections—eagerly to seek for and avail himself of flaws in title, or defects in form. But, in the last resort, he must needs judge whether the orders of a magistrate which he is called on to obey are within the range of that magistrate’s jurisdiction. A parish constable is, so far as his office extends, a ‘power ordained of God,’ as truly as the executive head of the state; and it is just as plainly a sin to oppose him. Suppose, in the exercise of his functions, he were to offer unprovoked violence to life, person, or property, grossly exceeding the limits of that power which the State allots him, would Dr Pusey offer him resistance or no? If he would not, upon what principle does he justify resistance to a robber or a murderer?

Let us apply this principle to the case of a constitutional monarchy. We have no wish to rest any part of our argument on what Dr Pusey calls the ‘subtle distinction’ of the *Social Com-*



*pact.* All we will say in its behalf is, that it seems to us not at all more subtle, and far more sensible,—not at all less warranted by revelation, and much more consonant with reason—than his own *jure divino* notions, to which we shall address ourselves presently. We deal only with institutions as facts, and with the duties which arise out of them. Now, in such a monarchy the King is in reality nothing more than a magistrate of limited authority, whatever he may be in theory. If he exceed that authority, he is just as much an aggressor as the parish constable. If the divine precept of non-resistance does not extend to prohibit self-defence against usurpation on the part of the lesser officer, neither does it against the greater. It is, therefore, we contend, impossible to pass a general condemnation on all resistance to regal authority in such a state;—unless to the doctrine of non-resistance we add that of the divine right of kings,—not merely as magistrates, for then their divine right would only protect them in the exercise of their legal authority, like other magistrates,—but *as kings*, as in themselves *sacro sanct* and inviolable. In order to arrive at this conclusion, it is necessary to combine the scriptural command with the mere human speculation.

It is scarcely needful to add, that the case thus propounded is precisely that of the Revolution. We need not go into the history of English Rights, and examine how long they had existed: suffice it to say, that James at his accession (whatever may have been the language held at court or from the pulpit as to his rights) found himself, in fact, no more than a simple magistrate. He had not the power to make a single law—not even the power to propose one. By the common understanding of the constitution, his subjects were no more bound to obey the legislation of the Monarch than the legislation of the Constable. His authority was indeed great and high; but, except on one or two controverted points, it was as accurately limited in practice as that of any other officer. In this state of things, James assumed the power of legislation; for to dispense with existing laws is to legislate. His subjects resisted. If James was a mere magistrate, then, according to our former reasoning, they had as much right to do so as to resist a robber or a murderer. When St Paul was threatened with illegal violence by a magistrate, he did not submit: he 'appealed unto Cæsar.' The subjects of James appealed, not indeed to an appellate jurisdiction in the ordinary sense, but to the tribunal of a co-ordinate authority—the great council of the nation. The constitution had not expressly provided such a remedy for such a case; but they conceived that its spirit must be so understood; and that, when one member of the supreme authority exceeds his trust, the true appeal must be to the remain-

ing members as representing the body of the nation. The members of that council met in fear and uncertainty; they, too, were determined on resistance, but it was long ere they decided on its consequences; and at last, whether through their fear of anarchy, or their passions, or their interests, the hand of Providence brought William to the throne, and the great change ended in the dethronement of a king and subversion of a dynasty. With the justification of each particular step in the change—of the forced ‘abdication’—of the assembling of the informal convention, and so forth—whether each was just, or expedient, or religious—we have nothing here to do. Nor are we at all concerned with the characters and motives of the actors in that revolution: whether they ‘used their liberty for a cloke of maliciousness’ or no, makes no difference in the merits of the case. The only important question of conscience is, as Dr Pusey will agree with us, whether James’s subjects had a right to resist him; a question involving the right of resistance to usurped authority in all generations. And we maintain, as before, that against that right of resistance no valid argument can be shown; unless it be contended that James as king possessed an inviolable character;—that his ‘divine right’ extended to *all* his actions, and was therefore quite different in kind from that ‘divine right’ which shields other magistrates whilst in the exercise of their legal functions only.

This, accordingly, was the ground assumed by the theological partisans of the Stuart cause; and the same ground is taken by Dr Pusey. By what manner of arguments he supports it, our readers will perceive from the following extracts from his Preface. We spare them the Convocation-book, and the Canons, which he cites in support of them.

‘Scripture knows but of two sources of power: 1. lawful, whereby the parental authority of the head of the family was gradually extended with the extension of the family, and so became patriarchal, which was in a sense regal: 2. unlawful, that of conquest, as Nimrod. *But of any state of things wherein the people had power in their own hands, to give it to whom they would, and upon what conditions they would, it knows not.* “If” (say Bishop Sanderson) “we will but follow the clue of the sacred history, in the four first chapters of Genesis, it will fairly lead us out of these labyrinths” (viz. whether government or property were first in order of time, and whether government were agreed upon to secure property, or property was assigned by law and government; in a word, whether government came from above or below, was voluntarily adopted, or was the original constitution of things, and part of the primary ordinances of God.) “It is certain, that as soon as Adam was created, God gave to him, as an universal monarch, not only dominion over all his fellow-creatures that were upon the face of the earth, but the government also of all the inferior world, and of all the men that after should be born into

the world so long as he lived : . . . . And we have great reason to believe that after the Flood the sole government was at first in Noah, and whatsoever either property in any thing they possessed in several, or share in the government over any part of the world afterwards any of his sons had, they had it by his sole allotment and authority, and transmitted the same to their posterity merely upon that account : without awaiting the election or consent of, or entering into any articles or capitulations with, the people that were to be governed by them. These words in Gen. x. 32. seem to import as much. "These are the families of the sons of Noah in their generations after their families : and by them were the nations divided in the earth after the flood." And so this supposed fact or contrast, which maketh such a noise in the world, proveth to be but a squib, powder without shot, that giveth a crack, but vanisheth into air, and doth no execution.'

Dr Pusey goes on to condemn the 'unbelieving theory' of the Social Compact ; with which, whether it be unbelieving or no, we cannot see that the present question has any thing to do ; since we are merely concerned with the duties of subjects in a country where the people actually have, and exercise power ; but which theory, it may be as well to remark, is just as strongly laid down by the pious Hooker as by the sceptical Locke. He then contends, as far as we understand him, that the patriarchal or regal power is the only one to which God vouchsafes a blessing ; *because* no other is mentioned in the history of the Old Testament ; 'which,' he says in the first sentence of his sermon, 'is the sun of all other history, sacred and profane.' And this is the whole sum and substance of the reasoning on which we are to conclude that kings reign by Divine right ; that any power exercised by the public, or a portion of it, can only be exercised by usurpation ; and consequently, that resistance to the illegal acts of James, was resistance to God's ordinance !

This mystical view of the Old Testament, as containing the whole Encyclopædia, if we may use the expression, of God's dealing with Man and the Church,—insomuch that whatever evidence of his Providence, or his Divine Government is not therein contained, must be rejected as spurious,—pervades most extensively the writings of the school to which Dr Pusey belongs. It is the product of a temper which would fain close the avenues of our understanding against all the other modes by which God permits his light to penetrate its darkness, except those of his revealed word, and Church tradition alone ; and which, when studied in this feeling of jealous exclusiveness, are studied with a wilful abandonment of the best means (humanly speaking) vouchsafed us for their comprehension. It is the very same spirit which looks with sinister misgivings on every attempt to extend the domain of thought—in natural and metaphysical

science, as well as in the study of human life and history—as if they were so many insidious invasions of the province of Faith. It is the same spirit in which a recent Bampton lecturer, Dr Nolan, chose to avail himself of the opportunity afforded by that excellent but polemical foundation, to denounce a considerable branch of modern science as an irreligious imposture—to wage war against ‘Mammoths’ and ‘Megalosauri’, and the whole race of Pre-adamite monsters—under the very eye of the Professor whose sagacious sense has detected so many of their traces in the bowels of the earth;—finding his geology just where Dr Sanderson found his theory of government,—namely, in the first four chapters of Genesis. And the application of that spirit to political study is precisely similar to that made by the old Puritans, who had much the same fancy for seeking all manner of precedents in the letter of the Old Testament; although they chose to deduce from it very opposite conclusions. They read of Samuel withstanding and denouncing the Lord’s anointed; of the revolt of Jehu, under Divine authority; of the successful ‘rebellion’ of Hezekiah against the King of Assyria; and they inferred that God had dispensed with the observation of his own command of civil obedience wherever his honour was concerned. Theirs might be the more dangerous doctrine, inasmuch as it made every saint the judge in his own case, whether to conform or to resist; but how their conclusions were a whit less legitimate than those of our Hebrew Professor, and Bishop Sanderson, when they argue that because there were no republics in Palestine, and because the patriarchal sway prospered under Divine blessing in Mesopotamia, therefore, popular government is something altogether out of the order of Divine appointment, we are at a loss to understand.

But, narrow as is the ground on which Dr Pusey rests his arguments, he may surely be confronted on his own chosen territory. How can it be said that Scripture knows only of patriarchal and monarchical governments, and recognises ‘no ‘state of things ‘wherein the people had the power?’ For three hundred and thirty years, from the death of Joshua to the anointing of Saul, there was no semblance of patriarchal or regal power exercised among the Jews. ‘In those days there was no king in Israel; ‘every man did that which seemed good in his own eyes.’ Jephthah ‘articled with the people,’ to use the language of Locke. He agreed with the elders of Gilead, and ‘the people made him ‘head and captain over them:’ God ratified their choice, and he judged Israel six years. From this narrative, and that concerning Abimelech (Judges, chap. ix.), it seems probable that those personages, who are in Scripture termed judges, were leaders chosen by the Jewish people in time of need to rule over them; and that

the general organization of the twelve tribes at that period was neither more nor less than republican,—unscriptural as the phrase may appear. Nor does it seem that they were less visited with the temporal blessings of their dispensation, whenever they rendered themselves worthy of them by obedience, in this period of their history, than after kings had been set over them as a punishment for their obstinacy.

But all this is little to the purpose, except for such as are anxious to meet the adversary with weapons borrowed from himself. The main point is, that the Divine right of kings, as something distinct from the claim which all magistrates and governments have on Christian obedience, rests on mere human theory;—a theory which the divines of the seventeenth century only supported by far-fetched analogical arguments, such as the scholastic taste of that time relished, but such as its good sense and plain religious sentiment practically rejected. Nothing but the peculiar zest which the spirit of reaction against modern tendencies gives to antiquated absurdities, could have induced the revival of them in our own day. But if this doctrine of Divine right be abandoned, Dr Pusey's arraignment of the Revolution, on religious grounds, falls alongst with it; unless, as we have said, he is prepared to maintain that resistance to force, by whomsoever employed, can in no case be offered by a Christian, and that all self-defence is unlawful. Whether this be or be not his meaning, his sermon does not very distinctly inform us. 'Resist not evil,' he says, 'is a precept plain in its mode of execution, though hard to fulfil; it prescribes a difficult but a plain track; but admit the principle that man may resist evil, it is no longer easy to say where, and how, resistance begins to be sin.' If he means this of resistance to governments, we answer, that on the principles we have laid down, it is perfectly easy to determine where it is lawful and where unlawful; and that although much sophistry will always be used to justify men in their own eyes, yet conscience and revelation will direct every one aright who has courage to follow them. To cite once more the 'unbelieving' theories of Locke: 'wherever law ends, tyranny begins, if the law be transgressed to another's harm; and whosoever in authority exceeds the power given him by the law, and makes use of the force he has under his command to compass that upon the subject which the law allows not, ceases in that to be a magistrate; and acting without authority, may be opposed as any other man who by force invades the right of another.'

When these plain principles are borne in mind, it will easily be seen how little applicable the example of the early Christians, which Dr Pusey and his Holiness Gregory XVI., in a late Ency-

clical letter, bring forward with so much earnestness in aid of legitimacy, is to the question now at issue. It is perfectly clear, that whatever the Christians suffered at the hands of the emperors and their delegates, was inflicted by the established authority. However inhuman the treatment to which they so resignedly submitted, it was in no sense illegal. To have opposed unlawful force to lawful force, would have been, in the strictest sense of the Apostle's word, resistance to powers ordained of God. Whatever judgment the world, in its looser notions of morality, may form of the extremity to which they carried out their principles of submission, the practical lesson which they convey to us who live under a constitutional government is that of obedience, not to man, but to the law. Dr. Pusey's attempt to make out a closer parallel, by arguing that the emperors had originally obtained their power by usurpation, is surely beside the question. 'It was not in a legitimate way,' he says, 'that the emperors whom St Peter and St Paul commanded men to obey came to the throne, nor had they even prescription to plead; yet, so far as the subjects were concerned, the powers that be were ordained of God.' It may be so; but we are not contending for the right of Christians to give or withhold obedience, according as they judge of the title of their princes. Dr Pusey confounds two very different things, the (assumed) right of subjects to disobey their sovereigns on the ground of questionable title; and their right to refuse obedience to a magistrate exceeding the legal bounds of his *de facto* authority. 'Scripture,' he says elsewhere, 'knows not our subtle distinctions of social compact; it bids us peremptorily to obey kings: and what kings? What compact,—not with their subjects, but with human nature itself, —had not Caligula, and Claudius, and Nero broken?' This seems to us the common fallacy of antithesis between a fact on one side, and a metaphor on the other. Whether there be such a thing as a 'social compact' or no, there is an *actual* compact between a king and his subjects in a constitutional country: which compact King James violated, and thereby broke the tie of obedience. But what is the meaning of a 'compact with human nature?' The utmost cruelty and sacrilege on the part of an absolute monarch may perhaps not excuse the disobedience of a subject; the slightest transgression of legitimate power by a magistrate may.

The reader of Locke's 'Treatise on Government' will at once see how little we have attempted to add to the arguments contained in it on this famous controversy. But it has fared with this, as with some other standard works: although it has furnished a stock of political opinions which have passed as it were into the popular mind, the book itself is now little read. Its

practical conclusions have become truisms, while its hypothesis is esteemed a paradox; for its theory of the social contract,—a mere speculative device or fiction to found arguments upon, which Locke improved, but did not invent,—has fallen into discredit in these less discursive times. But the real value of his reasonings is not in the least affected by the doubts which may be cast on the soundness of that assumption. We cannot but wish that the Canon of Christ Church had refreshed his memory by consulting the writings of the expelled student of that distinguished house before he mounted the pulpit, not to refute Locke, but to reassert those very positions of Sanderson, Usher, and Filmer, which Locke wrote to refute. We do not say that he would have been induced to modify his own views; but, surely, he would at least have noticed the argument on the other part. He quotes with approbation a saying of Dean Sherlock (who, by the way, lived long enough to recant his own arguments with a very indifferent grace) that in his time the doctrine of passive obedience and non-resistance were ‘not confuted, but laughed out of countenance.’ Perhaps a reader of this sermon may be tempted to say, that at Oxford in the nineteenth century, the doctrines of civil liberty are ‘not confuted, but anathematized.’

But we are to seek, it seems, for confirmation of Dr Pusey's opinions in the ‘judgments’ which have befallen the land since the Revolution! Thus it is, that in the blindness of our rash and hasty self-will we are ever torturing the manifestations of Divine Providence into testimonies to our petty views, and confirmations of our futile reasonings! Far be it from us to vaunt of the peculiar blessings with which God has visited this Church and country during the period which has elapsed since the Revolution: it may well be, that we have been thus favoured notwithstanding our own ill deservings, and that the Divine power has been manifested in the creation of good out of evil. But, most assuredly, he who finds in the social and moral condition of England, under her popular government, a series of ‘judgments,’ must be ill to please with any thing short of miraculous prosperity. And what are we to look upon as the special manifestations of divine anger, amidst the numberless and extraordinary blessings with which we have been visited? That the Church, forsooth, was ‘dead and shallow!’ What is exactly meant by these awful epithets we do not profess to understand: the Church in the 18th century was certainly not in all respects such a church as her Evangelical members on the one side, or her High-Church advocates on the other, may delight in conceiving; but that she was worse adapted, on the whole, than at any former period of her history, for the quiet task of reconciling, soothing, and governing the millions of hearts in

which Evangelical flights or High-Church mysteries excite neither interest nor anxiety, all the declamation of modern divines has not succeeded in persuading us. If her writers were sometimes wanting in spiritual earnestness, and more often in theological knowledge, she owes those defects to no single cause whatever so much as to the 'deadness' and 'shallowness' of her universities; more especially that orthodox one which seemed for a long time to have wholly lost her voice and her wits,—absorbed in mournful longings for the family 'over the water,' the shadow of whose lost authority she still cherished for half a century after their departure.

Πόθεν δ' ὑπερποντίας  
Φάσμα δόξει δόμων ἀνάσσειν.

The State 'feared and hated' the Church! See Lord Clarendon's History throughout, for the good reason which the State had to dread the political zeal of the Church, and to rue the day when it first leant on the Church for support! The State 'profaned the offices ' of the Church to strengthen secular parties.' *Lupus in fabula!* Who first intruded political services on the Liturgy? James I. and Charles II. When was the most solemn office of religion profaned by the impious Sacramental Test? In the reign of the latter monarch,—the 'golden age of English divines,'—and with their consent and applause. Those who achieved the Revolution would fain have abolished it, but dared not, for fear of the craftsmen of the great High-Church Diana: it was condemned by the sceptic Locke, defended by the saintly Dean of St Patrick's! It is not to the Revolution that we owe these blasphemies, Dr Pusey—if such you esteem them—but to the palmy days of Church and State,—the days of your own Anglican Saints and Fathers. The chair of Modern History has been too long a sinecure at Oxford. It 'ejected ' the Nonjurors!' They had themselves to thank for it. They maintained a vexatious schism for many years,—making a point of conscience out of a mere question of political sentiment or casuistry; and disappeared at last, after doing less good, producing fewer eminent men, and leaving less permanent impression than any other great ecclesiastical sect in English history.

The Nonjurors, however, are especial favourites with the party to which Dr Pusey belongs; and it has become the fashion to speak of them in a mystical, encomiastic language, in which the real grounds of their separation from the Established Church are as much kept out of view as possible. They are magnified as 'the ' Church of England unestablished'—as 'Catholic confessors'—as 'a witnessing Church,' bearing testimony to the doctrine of ecclesiastical independence—but with a cautious avoidance of the question why they became Nonjurors, and what were the funda-



mental principles of their little communion. The reason of this caution is plain enough; for it is difficult to see how any one can fairly take part with them in the great quarrel of their day, unless he is prepared to hold that the English Church is at this day schismatical, and the English Government an usurpation. Their ground of separation was the indefeisible hereditary right of King James and his descendants. In merely holding such a doctrine as this, we may think that their judgment was mistaken; but we cannot charge them with any religious error; their error, we conceive, lay in the application of the doctrine. They plainly abandoned the principles of the early church: for the first Christians not only *obeyed* but *recognised* the Cæsars, although, as Dr Pusey observes, their title was questionable. The Nonjurors professed to *obey* William and George, but refused to *recognise* them. This, we cannot but think, was their fundamental departure from right principle. Far be it from us to condemn, still more to vilipend them. If they judged amiss in the difficulties of a dark and perplexing time, their resolute and independent conduct, together with the unfeigned humility which in many of them met with those qualities, abundantly compensates for that venial error. And, with respect to the original Nonjurors, it must not be forgotten, that *they* had another and more valid ground of separation. They deemed themselves personally bound by the unqualified oath of allegiance which they had taken to James II.; and it is much to be wished that their Oxford representatives would learn to imitate them in their strength, instead of their weakness;—not in their visionary notions about hereditary right, but in that strong principle which regarded the letter of an oath as binding, and scorned to interpret it away as a *promise to God and not to man*, or by any other subtle evasion. But this scruple, however honourable to the first Nonjurors, as individuals, has nothing to do with the conduct and principles of their church; still less with those of their successors, who kept the form of that church for ninety years after the Revolution.

Dr Pusey, however, adopts the usual encomiastic language of his party respecting these separatists: nay, he roundly asserts that no one can doubt St Paul would have been a Nonjuror! A mode of confirming an argument which involuntarily reminds us of one who used to condemn cards and dancing by asking his hearers to imagine St Barnabas standing up in a quadrille, or St Paul taking a hand at short whist! How then does he escape from the necessary result of their principles—the invalidity of the title of the present reigning family to the crown of Great Britain? By subterfuges such as any consistent Nonjuror

would have scouted with measureless contempt. He argues, in his Preface, that prescription has for a long period established the right of the House of Hanover. But this is to mistake, and in the most ignorant manner, the very nature of prescription. Prescription is the creature of municipal law; it is a mere rule of convenience, adopted to repress litigation,—by which the possessor of a rightful claim is barred of his remedy by the lapse of a certain amount of time. But the lapse of time alone, unaided by positive law, works no defeasance of any right. Therefore, to contend that the present hereditary claimant of the British throne is barred of his right by adverse prescription, is to contend that society has the power to abrogate such a right; which is the very doctrine denounced by the Nonjurors, and by Dr Pusey, if we understand him, as unscriptural and unbelieving. Next, he lays a stress upon ‘the extinction of the unhappy line which was then (at the Revolution) in possession of the throne; the circumstance that the family now placed upon it were not the immediate successors of that family, but came in in a more orderly way.’ How this alters the case we cannot perceive. While there are in existence lineal descendants of the martyr Charles I., their claims on our allegiance are just as cogent as those of a lineal descendant of James II. would have been, and the injustice of their exclusion just as flagrant. So impossible is it to halt between these two opinions;—to establish any compromise between the doctrines of Sancroft, Ken, and Sherlock, and those principles on which the Church and State are at this day established! If those who refused allegiance to William III. were in the right, then is her Highness the Duchess of Modena (not, as Dr Pusey imagines, the King of Sardinia) at the present day entitled to the obedience of all British subjects as soon as she may think fit to claim it;—saving always any title which may hereafter happen to be established on behalf of a descendant of Edgar Atheling! If they were wrong, then both the Church (temporally speaking) and the State must be content to owe their existence *de jure* to the same power which *de facto* settled them on their present footing—the will of the nation expressed through its representatives.\*

\* It is remarkable with what readiness the Jacobites, tired with their long and unsuccessful protest, adopted the mistaken notion, which the slightest inspection of a genealogical table must have dispelled, that the right of the Stuarts devolved on George III. after the death of the Cardinal York. Even Sir Walter Scott, antiquarian as he was, seems to have partaken in this delusion. In his ‘Hints respecting an application for a reversal of the Attainders of 1715 and 1745,’ he uses it as an argument

Thus far we feel ourselves bound to protest against this modern revival, from the pulpit of the University, of her own exploded 'decree and judgment' of 1683. We do so with the most unfeigned respect for the talents and the character of that zealous minister whose views on this subject have been thus prominently and solemnly brought forward. He has indeed adopted the doctrines, and often the language, of a class of writers whom the world had pretty justly consigned to a contemptuous oblivion; but the strain of feeble and captious subtlety in which they spun out their inconclusive reasonings is exchanged, in his pages, for that high tone of undoubting earnestness which takes the willing mind prisoner, and captivates numbers for whom argument would have little attraction. All his peculiarities of style and manner are in unison with this prevailing spirit. He is powerful in declamation; but too often sinks into mere dogmatism when argument is most needed. His language is well calculated to exalt the zeal of those to whom, and for whom, he evidently speaks; but often rather to repel than to attract the doubting enquirer. This, however, is in accordance with the principles as well as the practice of the school to which he belongs. They usually address themselves, not to the sceptic or the neutral, but to those who come ready prepared with faith for the occasion. They esteem it their appointed office, not to convince, but to maintain; not to convert, but to bear testimony; and to trust that conversions will follow. And, up to a certain point, they may with reason boast of the success which attends this mode of proceeding; for the conversions obtained by an imposing earnestness of assertion are more numerous and brilliant, if less durable, than those effected by argument. In point of rhetorical taste, his style appears to us to want precision; his diction is too cumulative; his sentences long and loose; and his precise meaning sometimes not very clearly perceptible where the general sentiment is obvious enough. But these are comparatively trifling criticisms: the subject of the Sermon before us, and the manner in which it is treated, are too great and imposing to allow us to dwell on mere defects of manner, in the presence of thoughts of the deepest interest; some of which address themselves to the individual conscience, whilst others arrest the imagi-

that 'there is no longer any Pretender to his Majesty's crown, and all classes of his subjects now regard him both as *de jure* and *de facto* the only true representative of our ancient line of princes.'—LOCKHART'S *Life of Scott*, V. 225.

nation, to fix it on that field of mysterious speculation opened by the dealings of Divine Providence with the fate of empires.

Of the peculiar school of opinions in matters of Church and State to which Dr Pusey belongs, we may have more to say at some future time; for its propagation, and the degree of celebrity which it has attained, bring it under public notice in a variety of ways. It is undoubtedly little understood, and not a little misrepresented, especially out of its metropolitan seat at Oxford. Those who speak of 'the new Oxford school,' and the 'authors of the Tracts for the times,' generally know little about them, except as entertaining exaggerated notions of church authority—very recalcitrant against the commanding authority of the state—and distinguished by some odd peculiarities of conduct and language, which afford a good deal of scope for the raillery of the uninitiated. There is far more than this in the new manifestation of opinion, if not quite so much as its authors themselves seem to imagine. In fact, their chief characteristic appears to be, that they collect together the scattered notions which have been prevalent, ever since the Church of England separated from that of Rome, among the orthodox or High Church portion of her divines; and strive to array them in a more systematic shape than has usually been attempted. Thus, those principles which the recognised forms of the Church and the writings of its standard divines rather indicate than absolutely enforce—towards which their language appears to tend, but which, speaking generally, they do not lay down as conditions of orthodoxy—such as the absolute unity of the true Church in government and doctrine—the sanctity of the Episcopal succession—the high authority of primitive tradition—the transcendental doctrine of the sacraments—the reverence due to saints and martyrs, fasts and festivals—the power of absolution, and many more—all these they define and embody as articles of faith; attempt to weave them together into a complete fabric; and carry them all out into their remotest consequences without hesitation or compromise. In their view there are in religion few or no things speculative, probable, or indifferent: from the highest dogma to the most trifling ceremony all is fact or falsehood,—Catholic verity or heretical invention. This tendency to systematize seems to us to be at once the main cause of their strength and their weakness. It rallies round them a great number of associates,—particularly among the young, and chiefly in the clerical profession; because the number of minds to which any thing positive in religion,—any standard of faith which may spare the toil of investigation, the anguish of doubt, and the disappointment of compromise,—has irresistible charms. To a great many such,

it matters little what the precise doctrine is, provided it offers something certain and bodily, as it were, to the sense, and some exclusive object to pursue. Thus zeal attracts zeal by a natural affinity, however dissimilar the mode in which each may at the outset have sought to manifest itself. There is no more remarkable proof of this than the numbers, especially among the clergy, heretofore attached to what are called Evangelical principles, who have gone over and fraternized with the new sect, with which they had no one quality in common but enthusiasm;—passing as it were without an effort, from one pole to the other of religious opinion and sentiment, for the sake of the newer excitement. But, on the other hand, when the first ardour, both of proselytes and of sects, begins to cool, and the impulse of enquiry to succeed that of enthusiasm, this rigid spirit of system is apt to work a natural reaction. The mind, revolted by some of the extreme consequences to which the argument is pushed, is driven back to examine the first principles of the structure; and finding how little those principles are adapted to bear that test of reasonable criticism, to which the Protestant must appeal in the last resort, and to which the Catholic constantly addresses himself, even while he professes to disallow it;—how much, in *all* elaborate doctrinal systems, is taken upon trust, how small a foundation of scriptural or historical authority is often made to bear a huge superstructure of theory;—it feels the very pillars of its faith shaken, and is driven either to go wildly forward in search of still firmer support in bolder theories, or to fall back upon the solitary fastness of Rationalism. The history of Protestant dogmatism, both in Lutheran and Calvinist countries, furnishes ample evidence of the open effects of this process on churches and on individuals; whilst that of Popery, could its workings be as fully revealed, would still more forcibly exhibit its secret consequences, in the general prevalence of infidelity among the educated and intelligent. The Church of England, except at some particular periods of her history, has been very little prone to run into dogmatical extremes; and this forbearance is esteemed by the school in question her weak point; which they endeavour to correct by giving a new precision to her doctrines, and a new tone to her language. And whatever might be the result if this party acquired (which is not very probable) a preponderance in her counsels, we cannot but believe that at present they do her, in the main, considerable service. They form one of the three extremes of opinion; the other two being represented by the Evangelicals and Latitudinarians [if we may be allowed, without discourtesy, to use party names in order to avoid inconvenient periphrases,] which are comprehended within her tolerant embrace.

The loss, or discouragement, of either of them would be, as the Spartan said of the destruction of Athens, the extinction of one of the eyes of Greece; and that each of them may continue to find able champions and zealous partisans will be the wish of all those who believe that truth makes more real way amidst the eddies of conflicting tendencies, than where the current of one predominating influence has turned back, or swallowed up those which should serve to correct and control it.

But, leaving these high considerations for others of more worldly import, connected with the political prospects of our times, it is impossible not to be amused at the ill-disguised terror and anxiety with which the array of these valiant but rash allies is contemplated—not by those whom they assail—but by those in whose ranks they stand. For, in any charge which they make upon the common enemy, they deal their blows with such zeal and impartiality that the recoil is sure to lay prostrate some of their own well-wishers. Their high disdain of all compromise and expediency, their glorious contempt for principles of popular sovereignty, their impracticable notions of Church authority, and, above all, the utter incompatibility of their views with those of the ultra-Protestants of England and Ireland, or with those of our Presbyterians;—all these are so many points of repulsion, which drive off, and keep at a distance, those who would fain associate with them for purposes of mutual advantage. Their voice is a potent element of discord in that camp of many languages in which their tents are pitched. Still the alliance may subsist tolerably well, as long as the confederates are sunk together in the darkness of opposition.

‘Concordes animæ nunc et dum nocte premuntur;  
Heu quantum inter se bellum, si lumina vitæ  
Aspiciant, quantas acies stragemque ciebunt!’

Should they ever emerge into the daylight of power, the ill-concealed contrast of parties and principles will soon burst out into open hostility, and end in permanent separation.

ART. VI.—*The Highlanders of Scotland, their Origin, History, and Antiquities ; with a Sketch of their Manners and Customs ; and an Account of the Clans into which they are divided, and of the State of Society which existed among them.* By WILLIAM SKENE, F. S. A. S. Two volumes, 8vo. London : 1837.

THE interest which we have invariably evinced in the progress of our historical literature, and the pains we have taken to bring into view every contribution that seemed calculated to promote its advancement, naturally fixed our attention upon the present work. In the actual state of depression and neglect into which historical enquiry has unhappily fallen in this country, as compared with some others, particularly Germany and France, we were disposed to hail its appearance as symptomatic of the approach of a new era in the intellectual pursuits of our countrymen ; and, under the influence of this feeling, we turned to it with that avidity which the curious and interesting topics announced for discussion in its title-page, is so strongly calculated to excite.

Nor have we been altogether disappointed. The work, independently of its intrinsic merits, possesses several extrinsic recommendations, which, of themselves, would have been sufficient to direct particular attention to its contents. In the first place, it is ushered into the world under the sanction and auspices of the Highland Society of Scotland, which having offered a premium for the best History of the Highland Clans, adjudged the prize to Mr Skene ; and ‘deeming his work worthy of the attention of the public, requested that it might be published.’ Secondly, in complying with this request, the author has, in his own person, preferred ample claims to originality. ‘A glance at the table of contents,’ says he, in his preface, ‘will show that the system is entirely new ; that it is diametrically opposed to all the generally received opinions on the subject ; and that it is in itself of a nature so startling, as to require a very rigid and attentive examination before it can be received.’ On the double ground, therefore, of authority and of novelty, this system, described as at once so ‘new’ and so ‘startling,’ and which ‘is diametrically opposed to all the generally received opinions on the subject,’ certainly demands ‘a very rigid and attentive examination ;’ much more so, indeed, than, we fear, it will be in our power to bestow upon it, notwithstanding our desire to afford our readers a just measure of the author’s pretensions, and at the same time to put to the test the authorities and

arguments upon which his 'system' is founded. But, without attempting to follow Mr Skene through the wide field in which he expatiates, or to discuss all the doubtful and perplexed questions which he conceives himself to have definitively resolved, we shall endeavour, first, to make our readers somewhat acquainted with the 'entirely new system' which he has proposed, in contradistinction, or, rather, in 'diametrical opposition, to *all* the generally received opinions on the subject;' secondly, we shall shortly consider the validity of the claims to originality which he has so unequivocally announced; and, thirdly, we shall briefly discuss some of the leading arguments and authorities upon which his 'system' is founded.

To prevent misconception, however, it is proper to premise, that, in the present article, we intend to confine ourselves exclusively to the consideration of the speculative or theoretical views which have led Mr Skene to adopt the conclusion, that the received opinion respecting the descent of the Highlanders from the Dalriadic Scots is fundamentally erroneous. His work, it will be observed, resolves into two parts; the first treats of the origin, history, and antiquities of the Highlanders, and also of their peculiar customs and manners; whilst the second embraces a history of the Highland clans, constructed in conformity to certain old genealogies. The latter portion, however, is entirely beyond the purview of the scheme according to which our observations will be arranged; and even in regard to the former, our criticisms will be strictly limited to the chapters in which the author has endeavoured at once to overthrow the received system, and to build up one 'entirely new' upon its ruins. We have neither time nor space to devote to matters of mere detail, even if they were of a more interesting nature than is really the case. Nor is it at all necessary that any such exposition should be attempted. For Mr Skene himself has distinctly admitted, that the 'system' of history developed in the second part of his work, '*emerged upon the basis*' of his theory as to the Pictish descent of the Gael; and, consequently, if it can be shown, that the foundation is insecure, the *emergent* superstructure may safely be left to its fate.

I. That the Highlanders, who were at first called Scots, originated from Ireland, the ancient Scotia, has hitherto been considered as an undoubted historical fact. The arrival or return of the Scots from Ireland, under Fergus MacErth and his brother Loarn, is established by the concurring testimony of every Scottish and Irish historian; and their first landing is stated by the Venerable Bede to have taken place under their leader Reuda



or Riada, from whom their settlement was named Dalriada.\* Their migration is confirmed by all the Irish histories; and their arrival took place about the year 258, when a colony was first conducted by Riada to Argyle, in the southern part of which it settled. In the next century they are mentioned by Ammianus Marcellinus, under the denomination of Attacotti and Scotti;—they make a distinguished figure in the *Notitia Imperii*, a work of the fifth century;—and they appear to have retained the same settlements in Argyle until they were expelled from thence by the Picts. That they were a new people may be inferred from the circumstance of their being altogether unknown to Ptolemy, in whose map of North Britain no mention whatever is made of them. Restored by Fergus in 503, they re-established themselves in their original settlements, which they continued to occupy until about the middle of the ninth century; and from this colony, which was unquestionably of Celtic origin, the Highlanders are commonly supposed to have sprung.

But Mr Skene has proposed a different theory. From a very early period he had, he says, been convinced that there was in the received system 'some fundamental error which prevented 'the elucidation of the truth,' as all errors commonly do; and 'after a long and attentive examination of the early authorities 'in Scottish history,' together with 'a thorough investigation' of the Icelandic Sagas and the Irish Annals, he arrived at the conclusion that this error consisted solely in the supposition, that the Highlanders were descended from the Dalriadic Scots, and that their country had been included in the Scottish conquest, which is supposed to have taken place in the ninth century.†

The detection of error is commonly the first step towards the discovery of truth. Accordingly, Mr Skene, starting from

\* According to Bede *Dál* means a *part*. 'A quo videlicet duce '[Reuda vel Riada] usque hodie Dalreudini vocantur; nam lingua 'eorum *DAL partem* significat.' Pinkerton, however, says that '*Dál* 'or *Dæl* is a *part* in the Gothic, not in the Celtic, in which *Dál* signifies a *tribe*;' and he quotes Kennedy, (p. 106), in support of this opinion. But we must be excused if, in this instance, we prefer the authority of the historian to that of the antiquary. That *Dál* literally means in Gaelic a *part* or *division* is evident from all the words into the composition of which it enters, as *Dalree*, the King's Field; and hence *Dalriada* must mean the *part*, *district*, or *territory* occupied by Riada, the Reuda of Bede, and other historians.

† Pinkerton's *Enquiry into the Hist. of Scotland*, vol. ii. part iv. chap. 3 and 4. Laing's *Hist. of Scotland*, vol. iv. p. 410. Innes's *Critical Essay*, vol. ii. p. 640, *et seq.*

this point, proceeded to investigate the subject with all the care imaginable; and the consequence has been, that he conceives himself to have completely demonstrated a series of propositions which, if actually established by sufficient evidence, would unquestionably overthrow the received opinion, supported as it is by the concurring testimony of historians, and corroborated by the admitted identity of race and of language. These propositions are,—first, That from the earliest period down to the end of the fifth century, the part of Scotland extending to the north of the Friths of Forth and Clyde, was inhabited by a single nation termed indifferently Caledonians and Picts;—secondly, That in the beginning of the sixth century, an Irish colony arrived in Scotland and obtained possession of the southern part of Argyle, and that during a period of more than three centuries, the relative situations of the Picts and Dalriadic Scots remained unaltered;—thirdly, That during this period, the Picts were divided into two great nations, namely, the Dicaldones, or Northern, and the Vecturiones, or Southern Picts; that the Northern Picts inhabited the whole of the mountainous parts of the country, with the exception of the Dalriadic territories, whilst the Southern Picts occupied the plains; that in the year 843, the Dalriadic Scots conquered the Southern Picts, but this conquest was confined to that branch of the Pictish nation alone; and that, whilst the Northern Picts *probably* assisted the Dalriadic Scots in subduing their brethren of the plains, their own situation was not in any respect altered by this (imaginary) conquest, but, on the contrary, they remained in full possession of the north of Scotland;—and, fourthly, That the Northern Picts occupied the whole of the Highlands as late as the end of the ninth century; speaking *the same language*, and bearing the same national name as the Highlanders.

‘These *facts*,’ says Mr Skene, ‘supported as they are by *evidence of no ordinary description*, leads (*lead*) us to this simple result, that the Highlands of Scotland have been inhabited by *the same nation* from the earliest period to the present day;’ and ‘that while the tribes composing that nation have uniformly styled themselves Gael or Albanich, they have been known to the numerous invaders of the country, under the various appellations of Albiones, Caledonii (*Caledones*), Picti, Dicaldones, Cruithne, Northern Picts, Reddschankes, Wild Scottis, and Highlanders.’—(Vol. i. p. 87.)

Now, we have two objections to the ‘simple result’ of Mr Skene’s laborious researches: the first is, that his theory is not new; and the second, that it is not true. It has no pretension whatever to novelty, in as far as regards its essential principle,—

namely, that the Picts or Caledonians were Celts; and with respect to the modifications which the author has attempted to introduce, they appear to us, after all the consideration which we have been able to bestow upon the subject, to be even more incongruous and untenable than the principle itself. Nor, on the other hand, have we ever met with any instance of an attempt to challenge a settled opinion upon grounds so vague, assumptions so gratuitous, and authorities so ill-considered and inconclusive;—to say nothing of the dogmatism with which they are produced and insisted on in a production ‘crowned’ by the Highland Society of Scotland.

II. The question of originality may be very quickly disposed of. Until the year 1707, when Lloyd's *Archæologia* appeared, every writer who mentioned the Picts, except Cambden, assigned to them a Teutonic origin. From the time of Bede downwards this had been the received opinion. The author of the *Britannia*, however, misled by ‘some very ignorant Welshman,’ adopted the strange notion that the Picts were originally Welsh, and incurred no little ridicule in stating it gravely. ‘Cambden,’ says Pinkerton, ‘is a valuable topographer, which he may well be ‘without any pretence to learning; but with regard to the origin of nations, a subject requiring the most profound learning, his knowledge was most imperfect, and is the object of contempt to his learned countrymen Usher, Stillingfleet, Sheringham, and others.’ The same doctrine, however, was maintained by Lloyd in his *Archæologia*, published in the year 1707; and Innes in his *Critical Essay*, which appeared in 1719, contended that the Picts were the ancient Britons of the north, or *Wallenses*, and consequently of Cambro-Celtic origin;—an opinion which was afterwards adopted by Guthrie, Hume, Whittaker, and several others. Next came the two Macphersons, who, rejecting the notion of Welsh origin, derived the Picts from the Gael or Irish; and in this opinion they were followed, without due enquiry, by Henry and Gibbon, neither of whom appears to have bestowed the slightest examination on the subject.

Mr Skene, therefore, had not far to seek in order to discover that the supposition that the Picts or Caledonians formed a branch of the great Celtic stock was any thing but a novelty in historical literature; and as that people, or at least a portion of them, occupied the greater part, if not the whole, of the north of Scotland, it surely required no effort of generalization to arrive at the conclusion, that the modern Highlanders must, on this supposition, be their descendants. Assuming it as established, that the Picts were Celts, and spoke the Celtic lan-

guage, every difficulty would at once vanish ; in as far as regards history, Mr Skene has undertaken to throw an 'entirely new' light: indeed, there would not remain a single ground upon which to build a doubt respecting their fraternity and cognation. If the Picts were Celts, so also were the Dalriadic Scots ; and as these are the only two races whose claims enter into competition for the honours of Highland ancestry, their identification in lineage and in language would at once settle the question. Out of the commonly received opinion, however, there emerges a case of a very different description ;—one, indeed, in which there are two important points to be considered. The first has respect to the origin and descent of the Picts ; and the second, supposing it proved that the Picts were of Teutonic extraction, has for its object to ascertain from what branch of the great Celtic family the modern Highlanders are to be derived.

It is no doubt true that Mr Skene regards the northern Picts 'as a *distinct body*,' known under the 'peculiar appellation of *Cruithne*,' and not only having no sympathy with their southern brethren of the same name, but being ever ready to combine with any enemy against them. The epithets 'northern' and 'southern' do not, in his conception, indicate a geographical distinction merely, or two parts of the same national family, the one inhabiting the southern and the other the northern part of the country, as we should naturally have supposed. He carries the matter much farther, and assures us that the northern Picts were 'a distinct body;' in other words, that they differed both from the southern Picts and from the Dalriadic Scots ;—that the latter were assisted in their alleged conquest of Scotland by the Cruithne or northern Picts ;—and that, after this supposed conquest, 'the northern Picts, although they owed a nominal submission to the kings of the Scottish line, yet remained *in fact independent, and still retained their ancient territories and peculiar designation.*'—(Vol. ii. p. 64.) This is the only 'peculiarity' which we can discover in Mr Skene's 'system,' as he is pleased to call it ; and if it were founded in truth or reason, it would unquestionably present one of the most extraordinary anomalies to be found in the history of mankind.

The northern and southern Picts were either people of the same aboriginal stock, or they were not. If they were identical in origin and race, then it follows, from Mr Skene's principles, that Scotland, at the period to which this discussion refers, was inhabited only by Celts ; and, upon this supposition, no doubt or difficulty can possibly arise as to the parentage and descent of the modern Highlanders. But if they differed in both these respects,—if the southern Picts belonged to one great primitive

stock of men, and the northern Picts to another,—it seems passing strange that two such distinct bodies or races of mankind should invariably be noticed by historians under one and the same generic name, viz. that of Picts; that the identity of this race with that which is otherwise called Caledonians should be unequivocally maintained or indicated by every author of the least authority on the subject; and that Mr Skene, whose theory imperatively requires the assertion of such a discrepancy, if it had been at all feasible to risk so singular and anomalous an allegation, should have cautiously avoided giving us the slightest hint respecting the lineage of the southern, as compared with that of the northern, Picts. Upon this part of the subject, indeed, he observes the most guarded silence. Nor is it to be wondered, that he should have exercised this caution, because a single admission, either the one way or the other, would have at once overthrown the house of cards which he had built up with such painful industry.

Upon the whole, then, it is obvious that, in as far as his general principle is concerned, Mr Skene must be content, however reluctantly, to abandon all claim to originality; and that the only peculiarity by which his 'system' is distinguished is founded upon an implied assumption, which is at variance with all authority, inconsistent with reason, and, if explicitly stated, subversive of the very 'system' which it is intended to support.

III. But having said that this 'system,' even if new, is not true, or in other words, that it is unsupported by any thing deserving of the name of evidence, we shall now proceed to make good this general description of it, by a discussion of some of the leading arguments and authorities upon which it professes to be founded. We have no intention of following Mr Skene throughout the great multiplicity of collateral and not very relevant details with which he has encumbered his argument. On the contrary, we shall keep closely to the main question which alone we propose to discuss at present; and, in the course of our observations, we shall be able, we think, to show that if a revolution is to be effected in this department of Scottish history, the change must be produced by a more accurate, and a more discriminating enquirer than Mr Skene.

In the commencement of his first chapter, Mr Skene, before proceeding to prove (what no one, as far as we know, has ever disputed), that the Caledonians and Picts were the same people, lays down several canons of historical criticism, in regard to which we think it necessary to make a few preliminary observations.

After telling us that 'the authorities upon which the genuine history of Scotland is principally grounded' may be divided into

three classes, he goes on to state, that the Roman authors 'ought to be ranked as first in importance;' and that 'it is *exclusively* from *them* that the *great leading facts* in the early history of the 'country ought to be taken.' We admit, in the fullest extent, the validity of this principle, and only regret that Mr Skene himself should not have observed it. His acquaintance with these authors, notwithstanding the importance justly attached by him to their statements, appears to be extremely limited. His manner of citation is to collocate detached limbs or fragments of sentences, without giving the reader any intimation of the intermediate portions omitted; and he takes no notice whatever of the most important passages to be found in their works. A single example will be sufficient to establish the truth of this charge; to which, in other and similar instances, Mr Skene has unfortunately laid himself open. Tacitus is the first writer who mentions the Caledonians or Picts, and he gives it as his opinion, that they came from Germany, which, as Pinkerton observes,\* seems, in his view, to have included the people of Scandinavia, the Suiones, and also the Sitones. The words of the Roman historian are as follows: 'Ceterum, Britanniam qui mortales initio coluerint, indigenæ an advecti, ut inter barbaros, parum compertum. Namque *rutilæ Caledoniam habitantium comæ, magni artus, Germanicam originem adseverant*. Silurum colorati vultus, et torti plerumque crines, et posita contra Hispania, Iberos veteres trajecisse, easque sedes occupasse fidem faciunt. Proximi Gallis, et similes sunt: seu durante originis vi; seu, procurentibus in diversa terris, positio cœli corporibus habitum dedit: in universum tamen æstivanti, Gallos vicinum solum occupasse, credibile est.'† Now, from this passage we learn three things: first, that the Caledonians or Picts exhibited in their physical formation and attributes, the distinctive type of the Teutonic or Scandinavian race;—the grand features of which are, to this day, red hair and large limbs; secondly, that the Silures, from their tawny complexions, and generally curled hair, as well as from the position which they occupied, were supposed to have been of Iberian or Spanish origin; and, lastly, that the Britons opposite the Gauls, resembled that people both in their physical conformation, and in their language, (*sermo haud multum diversus*.) Here, then, is an authority which strikes directly at the roots of Mr Skene's whole theory, by a re-

\* Pinkerton's *Enquiry into the History of Scotland*, vol. i. part iii. chap 3, p. 183.

† Tacitus in *Vita Agricolæ*, c. 11.

ference to the distinctive and indestructible types of race;\* yet all that relates to the Caledonians has been carefully omitted by him; and he collocates two fragments\* of the passage in the following extraordinary fashion:—

‘ Proximi Gallis et similes sunt,  
Sermo haud multum diversus.†

If the Roman authors ‘ought to be ranked as *first in importance*,’ and if ‘it is *exclusively* from *them* that the *great leading facts* in the early history of the country ought to be taken,’ it must be admitted that this is an ‘entirely new’ method of dealing with their statements. But we shall hereafter have occasion to show that this is not a solitary instance of the liberties which Mr Skene has somehow permitted himself to take with the texts of authors whom he cites in support of his ‘system.’

Secondly, Mr Skene, speaking of ‘the early monkish writers,’—as Bede, Gildas, Nennius, Adomnan, and others, observes—‘Much of the *error* into which former writers have been led, has arisen from an improper use of these authors; *they should be consulted exclusively as contemporary historians!*’ The object of this sin-

\* In no instance, as far as we have observed, does Mr Skene take into his consideration the distinctive types of race, which, in questions of anthropology, are, perhaps of all criteria, the most important, because the most permanent and consequently the most certain. ‘Every one,’ says Pinkerton, ‘who has been in North Britain, knows that the Lowlanders of that country are as different from the Highlanders, as the English are from the Welsh. *The race is so extremely distinct as to strike at first sight!* In person the Lowlanders are tall and large, with fair complexions, and often with flaxen, yellow, and red hair, and blue eyes; the grand features of the Goths, in all ancient writers. The lower classes of the Highlanders are generally diminutive, if we except some of Norwegian descent; with brown complexions, and almost always with black curled hair, and dark eyes. In mind and manners the distinction is as marked.’ (*Enquiry*, vol. i., part iii., chap. 10.) If all history were utterly extinguished, therefore, we should know to a certainty, from the persons, manners, and language of the Lowlanders, that they were of a different race from the inhabitants of the mountains; and that, whencesoever the origin of the latter may be derived, the former came from the opposite continent. Is this marked difference, then, an element to be kept altogether out of view in a discussion having for its object to determine the origin, descent, and peculiar characteristics of these two races of men? Tacitus was not of this opinion, when he stated that ‘the red hair and large limbs of the inhabitants of Caledonia indicated their German origin.’

† By an error of the press, we presume, these scraps are cited thus: ‘Tacitus in Vita Agricola.’

gular canon seems to be, to get rid of the authority of Bede and some others, particularly the former, respecting the origin of the Caledonians or Picts;—an authority, we may remark in passing, which, rightly understood, is perfectly in accordance with that of Tacitus above cited, and other Roman writers. But we altogether deny the soundness of the canon which is here propounded. So far from receiving as true ‘whatever they assert as existing or occurring in their own time, or shortly before it,’ and rejecting all the rest as ‘undeserving of credit,’ we hold very nearly the opposite doctrine; and excepting those events or occurrences which fell within the personal knowledge or observation of each, we maintain that they can scarcely ever be consulted, with safety, ‘as contemporary historians.’ In the early age when they lived and wrote, the interchange of communication was slow, uncertain, and precarious. Knowledge of every kind circulated with great difficulty, amidst accumulated obstructions; and it was only after the lapse of very considerable intervals of time, that any thing approaching to accurate information could be procured, or the truth even partially ascertained. If, even in modern times, with all their facilities of intercourse and communication, contemporary historians commit the greatest mistakes, how infinitely more liable to error must have been those early writers, who lived in a barbarous age, surrounded by anarchy and violence, and destitute of every source of information except what accident or chance threw in their way? To represent such writers as authorities in regard to contemporary occurrences, is to presume largely upon the ignorance of modern readers. But their testimony is nevertheless of the greatest value and importance respecting all that was generally believed and known at the times when they wrote; and it is in this respect chiefly that their works are highly instructive to the enlightened and philosophical historian, who, instead of attempting to draw an arbitrary line of demarcation, like that proposed by Mr Skene, tests their various statements by the established laws of evidence, and the principles of sound criticism.

We had likewise some observations to offer respecting the third class of authorities mentioned by Mr Skene, namely, the Annalists, and particularly in regard to the use which he has made of the Norse Sagas; but we shall postpone all further preliminary remarks, and proceed to examine some of the leading arguments he has produced in support of the ‘system,’ which he conceives himself to have so fully established.

- \* 1. Mr Skene’s opening chapter has for its object to prove, first, that the Caledonians and Picts were one and the same people; and, secondly, that the Dalriadic Scots were an Irish colony,



which arrived in Scotland about the beginning of the sixth century, and obtained possession of the southern part of Argyre. In reference to the former of these propositions, however, there appears to have been little occasion for undertaking to prove a point, which had long ago been completely settled. Innes and Pinkerton differ very widely as to the origin of the people first called Caledonians, and afterwards Picts, by the Roman writers; but both these writers are entirely agreed as to the identity of the race to which these names were at different periods applied; nor are we aware that this fact has been seriously disputed by any author of the least credit or authority, on the subject of the early history of Scotland. The name of *Picti* is first used by Eumenius the Panegyrist, in a passage which has become the more famous as its construction in the old edition puzzled Buchanan, and some other Latin scholars of great eminence; and it is not a little remarkable that the same writer who first uses the name also speaks of 'the Caledonians and other Picts,' in order that, as Pinkerton observes, not a doubt might remain 'even with the most ignorant.' The words of the original are as follow:—'Neque enim ille (Constantinus) tot tantisque rebus gestis, non dico Caledonum, (aliorumque Pictorum, silvas et paludes, sed nec Hiberniam proximam, neo Thulen ultimam, nec ipsas, si quæ sunt, Fortunatas insulas, dignatur acquirere.' It was, therefore, a work of supererogation to prove, what no one had disputed, that the Caledonians were Picts; or, in other words, that both these names were applied to one and the same people. The ulterior question, as to whether the Picts were of Celtic or of Teutonic origin, still remains behind; and must be settled, if it can be settled at all, by other evidence,

The first of the two passages here referred to, affords us an occasion to notice another instance of Mr Skene's unfortunate inaccuracy in quotation. After telling us, on the authority of Eumenius, that the Picts 'certainly existed in Britain as early as the days of Cæsar,' he subjoins the following quotation from that author, which we give exactly as he has printed it:—'Soli Britanni Pictis modo et Hibernis assueti hostibus.' Now, taking this excerpt as it stands, it is grossly ungrammatical; and, although a portion of the sense may be divined, the mere dislocated limb of a sentence can of course convey no accurate notion of the author's meaning. The entire sentence runs thus:—'Adhuc natio etiam tunc rudis, et soli Britanni, Pictis et

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\* *Critical Essay*, Vol. i. chap. iii. p. 41. *Enquiry into the History of Scotland*, Vol. i. Part iii. Chap. i.

'*Hibernis modo assueta, hostibus adhuc seminudis, facile Romanis armis, signisque, cesserunt.*' Buchanan proposed to understand *solī Britanni* in the genitive,—'of the British soil;' but as *Britannus* is a substantive signifying 'a Briton,' and never used adjectively, at least in prose, where *Britannicus* is the proper epithet expressive of 'British,' this interpretation was found to be inadmissible; and considerable doubt prevailed as to the true import of this sentence, until the year 1779, when Schwartz and Jäger, in their valuable edition of the Panegyrists, published at Nuremberg, restored it from a manuscript to which they had access, and which enabled them to render it ultimately blameless and perfect. In its amended state, the passage stands thus:—'Ad hoc natio etiam tunc rudis; et solis Britanni Pictis modo et Hibernis assueti hostibus, adhuc seminudis, facile Romanis armis, signisque, cesserunt.' All this information, and more, Mr Skene might have derived from Mr Pinkerton's *Enquiry*, if he had taken the trouble to consult it.\*

2. In the next place, Mr Skene has not informed us upon what precise authority he fixes the *first settlement* of the Dalriadic Scots in southern Argyre at or about the beginning of the *sixth* century. Upon this point his statements are vague and inconclusive. It is no doubt true that some English and Irish antiquaries—as Usher, Lloyd, Stillingfleet, O'Flaherty, and others—have omitted all notice of the original colony, and represented the second, which arrived in the year 503, as having effected the first settlement. But this has arisen from overlooking the authority of Bede, which, notwithstanding all that has been said by Mr Skene, we consider as the most important that can be produced in reference to this question; and also from neglecting to compare it with others by which it is, in every essential point, completely confirmed. The general result is, that the first settlement was effected about the year 258, under Cairbar Riada (called *Reuda* by Bede), from whom the country derived the name of Dalriada, whilst the settlers were called Dalreudini or Attacotti;

\* According to Buchanan's proposed construction of *solī Britanni*, the meaning would be, 'Moreover, the nation being then rude, and used only to the Picts and Irish of the *British soil*, enemies still half-naked, easily yielded to the Roman arms.' But, according to the restored reading, which harmonizes both the construction and the sense, it runs thus:—'Moreover, the nation was then rude; and the *Britons*, accustomed only to contend with such half-naked enemies as the Picts and the Irish, easily yielded to the Roman arms.' We give these translations to show the importance of the most minute examination of authorities.

and that the latter, having been expelled by the Picts, were afterwards restored to their original possessions in 503, and established the kingdom of Dalriada, which lasted until 843, the date of the pretended Scottish conquest by the Dalriads and northern Picts. Upon this subject, however, it is only necessary to refer to Mr Pinkerton's *Enquiry*, in which the reader will find all the authorities collected and discussed, with equal learning and ability.

3. But the pivot of Mr Skene's whole 'system' is the distinction which he attempts to draw between the *northern* and *southern* Picts. Instead of considering these epithets as merely geographical, he endeavours to show that they are descriptive of two separate and independent 'nations' or 'tribes;' and he fortifies himself in this position from the one being called *Dicaledones* and the other *Vecturiones*, by the Roman writers. 'They are described,' says he, 'as having been divided into two great *nations*, Dicaledones and 'Vecturiones;' and again, 'This distinction of the Pictish nation' into two great *tribes* of the Northern Picts or Dicaledones, and 'Southern Picts or Vecturiones, took its origin, probably, from 'accidental circumstances.'—(Vol. i. pp. 34, 35.) Here, then, we have, first, the *Picts* divided into two great *nations*; and, secondly, the *Pictish nation* divided into two great *tribes*. In the one case, we have *distinct* nations; in the other, we have but *one* nation divided into two distinct *tribes*. Does Mr Skene really suppose that these incompatible statements are equivalent; or if so, how is it possible to reason with a writer who thinks so inaccurately, and expresses himself so loosely? He forgets, too, that the *real* question to be resolved is not whether the Picts were divided into two *nations*, or whether the Pictish nation was divided into two *tribes*, but whether these nations or tribes were of the *same* or of a *different original race*. If they were sprung from a common stock, it matters nothing to the point at issue, that the one portion was called Dicaledones and the other Vecturiones; or that the former occupied the mountainous part of the country, and the latter the plains between the Frith of Forth and the Grampians. But if they were of a different race,—or, at least, if it was intended to convey such a notion, as in fact appears to be the case,—why has not Mr Skene said so at once, and produced his proofs, instead of confusing himself and his readers by such incongruous distinctions as those just noticed? We repeat, that the real question at issue is one as to *race* alone; and this question Mr Skene has left precisely where he found it. 'The divisions of Ammianus,' says Pinkerton,\* 'are the same with

\* *Enquiry into the Hist. of Scotland*, Vol. i. part iii. chap. 1. 118.

‘those of Bede\* who mentions the Southern Picts below the Grampians (*Vecturiones*); and the Northern Picts above them (*Dicaledones*). The former name of *Vecturiones* was in fact the proper and real name which the Picts gave themselves, the *Pehtar* or *Pechtar* of the Saxon Chronicle, the *Vikveriar* or *Vichtveriar* of the Icelandic writers softened and latinized. As these lived close to the frontier, and had in peace frequent intercourse with the Provincials, the name *they gave themselves* was of course known and used; while the Northern Picts living at a distance, the old name of *Caledones* and *Dicaledones* was as naturally retained for them. Yet it was known that *they were all Picts, all one people*, though divided by a chain of mountains. Mr Macpherson, adds the same author, ‘derives the name *Deucaledones* from their northern position, and I am happy at once to agree with him.’ This is clear, distinct, and satisfactory. In fact, it would be quite as rational to suppose that

\* Mr Skene has borrowed from Pinkerton—to whom, or to Father Innes, he is indebted for almost every authority he cites on this branch of his subject,—a passage from Bede, which, according to him, proves that the *two-fold division* of the Pictish nation subsisted at least down to the eighth century. ‘The origin of this division,’ says he, ‘cannot now be traced; but as it apparently did not exist in the time of Ptolemy, it must have owed its origin to circumstances occurring subsequent to that period.’ It would be a pity if the cloud which rests on the *origin* of this two-fold division were not dispelled. Let us attend to Bede, whom, on this occasion, Mr Skene calls into court to bear evidence in his favour. That venerable author informs us that St Columba came over from Ireland ‘*prædicaturus verbum Dei provincii Septentrionalium Pictorum, hoc est, eis qui, arduis atque horrentibus montium jugis, ab australibus eorum sunt regionibus sequestrati.* Namque ipsi Australes Picti qui *intra* eosdem montes habent sedes, multo ante tempore, ut perhibent, relicto errore idolatriæ fidem veritatis acceperant.’ (lib. iii. c. 4.) Now, if Mr Skene had clearly understood this passage, he would have discovered, first, that Bede marks the distinction of northern and southern Picts as one purely *geographical*; secondly, that by the words ‘*ab australibus eorum* (Pictorum)’ he completely identifies the Picts of the north with those of the south; and, thirdly, that, in the above passage, *intra* means ‘on this side,’ in opposition to *extra*, which signifies ‘beyond.’ But that Mr Skene did not understand it, is proved by the elementary mistakes which he has committed in transcribing and printing it. Thus, for ‘*hoc est eis qui*’ (viz. *Picti*) he prints ‘*hoc est eis quæ*,’ and for ‘*ab australibus eorum sunt regionibus sequestrati*,’ he gives ‘*ab australibus eorum sunt regionibus sequestrata*,’ thereby annihilating the grammatical construction, and vitiating the whole passage.

the northern and southern Welsh formed two separate nations or tribes, as to adopt the extraordinary notion which Mr Skene has sought indirectly to promulgate.

4. The Scottish Conquest, as it is called, is a great stalking-horse of Mr Skene. In the general summary of his doctrine on this point, he tells us 'that in the year 843, the Dalriadic Scots conquered the Piccardach or southern Picts, but that *their conquest was confined to that branch of the Pictish nation alone* ; and that, while the northern Picts *probably* assisted the Dalriadic Scots in that conquest, *their* situation was, at all events, not in any respect altered by it, but, on the contrary, that *they remained in full possession of the north of Scotland.*' Now, if this were true, it would deserve to be regarded as one of the most curious circumstances recorded in history. First, we are informed that a small colony of Irish origin, occupying only the southern part of Argyleshire, conquered the inhabitants of the extensive and comparatively fertile tract included between the Friths of Forth and Clyde, which even then was possessed by a numerous population. Secondly, we are told that the conquerors were 'probably' assisted in that conquest by the northern Picts, who, on this supposition, must have joined the Dalriadic Scots in a war of subjugation, if not extermination, against their southern brethren. Thirdly, it is further alleged that the situation of the former 'was, at all events, not in any respect altered by it ;' or, in other words, that they fought for love, as schoolboys term it, leaving to their friends the Dalriads all the glory and all the advantage of the victory. And, lastly, it is added, that abandoning every thing to their allies, they remained exactly as they were before, 'in full possession of the north of Scotland.' It can scarcely be necessary, we should think, to offer any formal or serious refutation of such positions as those which we have here noticed ; more especially as, under the subsequent head, we shall have occasion to show collaterally that they are altogether imaginary.

The period of Scottish history which extends from the year 843 to the year 1056, is, if possible, still darker than that which immediately preceded it. There is not even an Adomnan or a Bede to shed a ray of light through the deep obscurity which overshadows it. The Irish writers, wholly occupied with the miseries of their own country, scarcely mark, now and then, the death of a king of North Britain ; and in Scotland itself, not a native writer appeared until the thirteenth century. 'Un fortunately,' says Mr Pinkerton, 'the most important event in the ancient history of Scotland took place in this darkest night ; namely, the union of the Picts and Dalriada.' But we have no information respecting this remarkable 'union' till two centuries

afterwards ; when accounts the most palpably fabulous and absurd began to be followed by the old writers. That some event of this kind did actually occur, and that the whole of Scotland was united in one government under Kenneth, seems to be generally admitted ; but beyond this we know almost nothing. Mr Pinkerton, however, has shown that there was no conquest ; and, what is even more material to our purpose, there is not a shadow of proof that the language of the *Scotti*, that is, the Irish or Celtic, prevailed in Scotland after the time of Kenneth.

5. We come now to Mr Skene's fourth chapter, which is by far the most important in his book, and therefore merits a pretty close examination of all its leading points. It is headed thus :—'The Northern Picts called themselves Gael, spoke the Gaelic language, and were the real ancestors of the modern Highlanders.' Now, if it were proved, by unexceptionable evidence, that the Northern Picts actually 'spoke the Gaelic language,' we readily admit that this would of itself create a strong presumption in favour of the supposition of their having been 'the real ancestors of the modern Highlanders.' In order to arrive at some conclusion on the subject, therefore, we shall, first, consider the terms of the question proposed ; and, secondly, examine some of the authorities upon which Mr Skene mainly relies for establishing his position that the Northern Picts 'spoke the Gaelic language.'

The conditions of the question proposed appear to us to be totally incompatible with the supposition of the truth of Mr Skene's 'system.' If the southern and the northern Picts were originally of the same nation and race, as all the authorities without exception lead us to believe, then they probably spoke the same language. The contrary of this has not been, and indeed cannot be maintained. But, according to Mr Skene, the northern Picts spoke Gaelic, which, on the assumption of identity in origin and race, must also have, in all probability, been the language of the southern Picts. Both divisions, then, spoke the same, or dialects of the same language. But the Dalriadic Scots, as they are called, having originally come from Ireland, and being of Celtic origin, must likewise have spoken a dialect of the same language ; and, about the middle of the ninth century, when the Picts and Dalriads were united under one king and one government, the language of all Scotland must have been Gaelic, or at least Celtic. Pinkerton has shown, however, that no proof whatever exists of the language of the *Scotti* having prevailed in Scotland after the time of Kenneth ;—and in point of fact, we find that, by the commencement of the twelfth century, the Scottish language had been formed upon a Saxon model, with a Saxon grammar, whilst not a single trace of Gaelic or Celtic remained. How, then, did it come

to pass that, between the middle of the ninth and the commencement of the twelfth century, the Celtic entirely disappeared, and was replaced by a form of speech constructed on the Saxon model? Is there in all history any example to be found of a change so extraordinary, and, we may add, so improbable? The Celts are proverbially tenacious of their speech and their manners; indeed, it has been found impossible to eradicate the one, or to alter materially the other. Twenty centuries, perhaps, could not have effected the change which, by the supposition on which we are now arguing, must have been produced in less than three.

On the other hand, if it be alleged that the Picts were not one nation, but two, and that the northern Picts spoke one language and the southern Picts another;—we answer, that this cannot be assumed without proof, in the face of all known authorities, and that any inference drawn from such an assumption can have no validity whatever. The history of the Scottish language alone proves that, although the people may have been conquered by a Celtic tribe more warlike than themselves, as the English Saxons were by the Normans, yet that the great mass must have been of Teutonic, or, as Tacitus supposed, of Germanic origin. The language of the great majority always maintains its ground, even in spite of conquest and revolution. This happened in England, notwithstanding all the efforts of the conquerors to introduce the Norman French, and to displace a language which incessantly reminded the people of their native laws and customs, as well as of their ancient independence. They caused the laws to be written and administered in Norman French; but the people adhered with inflexible fidelity to the Saxon, and nothing short of their entire expulsion or extermination could have ever eradicated it. In Scotland, too, the language of the great mass prevailed; and thus, in whatever light the question may be viewed, or however it may be stated, the doctrine of Mr Skene appears to be inconsistent with all principle and experience. But let us attend for a moment to what he calls his ‘proofs.’

‘The first proof which I shall bring,’ says he, ‘that the Picts were a Gaelic race, and spoke a dialect of the Gaelic language, is from the Welsh Triads;’ which, it is alleged, were written ‘previous to the Scottish conquest in the ninth century.’ But what does this proof amount to? Why, that the Triads mention amongst the other usurping tribes in Britain, the *Gwyddyl Ffichti*, which Mr Skene translates *Gaelic Picts*, or *Pictish Gael*; and afterwards add that ‘these Gwyddyl Ffichti are in Alban, along the shores of the sea of Llychlyn.’ The term ‘Gwyddyl’ however, is confessedly applied to the Dalriads as well as Picts; and, consequently, it is at least equally probable that the former

only are meant by the words 'Gwyddyl Ffichti,' the term 'Ffichti' being a general denomination. Yet, on this apocryphal authority, Mr Skene maintains that the Picts and Dalriads 'must have been 'of the same race,' and that the former were 'a Gaelic people.' This is certainly a sweeping conclusion to be deduced from so scanty and doubtful premises. What would Mr Skene think of the logic of a writer who should affirm that the Highlanders and Lowlanders *must* be of the *same* race, because both are described generally as *Scots* or *Scottish*?

Our author's next proof, however, furnishes, in his opinion, 'the most incontrovertible evidence that the language of the Picts was 'a dialect of the Gaelic.' We shall therefore allow him to state it at length in his own words:—Adomnan, it is well known, wrote the life of Saint Columba in the seventh century, at a time when the Picts were at the height of their power. On one occasion he mentions, that when Columba was in Sky, a Gentile old man, as he always terms the Picts, came to him, and having been converted, was baptized in that island. He then adds this passage:—"Qui hodieque in ora cernitur maritima, fluviusque ejusdem loci in quo idem baptismum acceperat *ex nomine ejus Dobur Artbranani* usque in hodiernum nominatus diem ab *accolis* vocitatus." It so happens, however, that "*Dobur*" in Gaelic means "a well," and that it is a word altogether peculiar to that language, and not to be found in any other. It has been fully proved in a preceding chapter, in discussing the extent of the Pictish territories, that the inhabitants of Sky must at that time have been Picts, and consequently, it will follow of necessity from this passage, that they used the Gaelic language.—(Vol. i. p. 71.)

This, then, is Mr Skene's 'incontrovertible' proof that the northern Picts used the 'Gaelic language.' That there may be no mistake, however, we shall extract from Adomnan the entire passage here referred to; more especially as Mr Skene has only quoted the last sentence of it, which is unintelligible when detached from the context. It is entitled 'De quodam Artbranano Sancti prophetia viri,' and is as follows:—"Cum per aliquot dies in insula demoraretur *Scia* vir beatus, alicujus loci terrulam, mari vicinam baculo percutiens, ad comites sic ait: Mirum dictu, ô filioli, hodie in hac hujus loci terrula quidam Gentilis senex, naturale per totam custodiens vitam, et baptizabitur, et morietur, et sepelietur? Et ecce quasi post unius intervallum hora navicula ad eundem supervenit portum, cujus in prora quidam advectus est decrepitus senex, primarius *Geone* cohortis, quem bini juvenes de navi sublevantes, ante beati conspectum viri deponunt. Qui statim verbo Dei a Sancto per INTERPRETEM recepto credens, ab eodem baptizatus est, et post expleta



‘baptizationis mysteria, sicut Sanctus prophetizavit, eodem in loco consequenter obiit; ibidemque socii congesto lapidum acervo sepeliunt. Qui (*lapidum acervus*) hodieque in ora cernitur maritima, fluviusque ejusdem loci, in quo idem baptisma acceperat, ex nomine ejus *Dobur ARTBRANANI*, usque in hodiernum nominatus diem, ab accolis vocitatus.’\*

In reference to the passage here quoted, we have to observe, in the first place, that the reading of *Scia*, or *Sky*, is given on the faith of a single manuscript in the British Museum, and is not that of the other editions of Adomnan. ‘Editiones ferunt *Scotiam*,’ says the editor; and if the latter reading be the true one, there is an end at once to Mr Skene’s ‘incontrovertible’ proof; for the *Scotia* of that age meant *Hibernia* or Ireland, where Celtic was undoubtedly spoken. Secondly, Mr Skene, who attaches so very much importance to the word, ‘*Dobur*,’ takes no notice whatever, of ‘*Geone*,’ the name of some military cohort amongst the Picts; although it would have obviously helped his argument greatly if he could have shown that this word was also of Gaelic origin. Thirdly, if ‘*Dobur*’ means ‘a well,’ it does not very clearly appear how such a term could, with any propriety, have been applied to a river (*fluvius*). The Gaelic name for a well is *Tobar*, *Tobair*, or *Toibre*, which certainly possesses a considerable similarity in sound to ‘*Dobur*,’ and *Dobhair*, which, in the same language, signifies ‘the border of a country,’ or ‘water,’ comes still nearer.† But words similar, or even identical in sound, are not necessarily of the same language; and, at any rate, even if it were admitted that ‘*Dobur*’ is a Celtic term, such an admission would prove nothing in the present case. For Adomnan, the biographer of St Columba, was like the Saint himself, a native of Ireland; and nothing is more probable than that he may have used a term familiar to his own ears for its equivalent in another language, with which he was but imperfectly, if at all, acquainted. It is evident, indeed, from the sense of the passage, that the word ‘*Dobur*’ here employed means not ‘a well’ but a *font*, as will appear more clearly from the following translation,—‘Which (cairn) is still to be seen on the sea-coast; and the river of the same place in which the Gentile old man had received baptism, is to this day frequently called the *Font of Artbrananus* by those who live in the neighbourhood.’

\* Adomnanus in *Vit. Columbæ*, lib. i. c. 23, in Pinkerton’s *Vitæ Antiquæ Sanctorum*. 8vo. London, 1789.

† See *Dictionary of the Gaelic Language*, published under the direction of the Highland Society, in *vocibus TOBAR* and *DOBHAIK*; also Armstrong’s *Gaelic Dictionary*, under the same heads.

But, not to dwell on matters of secondary importance, the passage above cited from Adomnan distinctly proves, if any thing can, that the language of the Picts *was not understood* by St Columba, and therefore *could not have been of Celtic origin*. It is admitted by Mr Skene, that Adomnan every where calls the Picts Gentiles. The old man, who arrived in the boat, according to the Saint's prophecy, and who is called 'Gentilis senex,' was therefore a Pict, and the chief of the cohort called *Geone*. What followed his arrival and presentation? St Columba discoursed to him, *through an interpreter*, and he having believed 'the word of God' *thus preached* to him, was baptized, and immediately afterwards expired. It follows, therefore, that St Columba, who was an Irish Scot, did not understand the language of the Picts; and that, in discoursing to them, he was obliged to employ *an interpreter*, which he would never have found it necessary to do if the Picts had spoken the same language with himself.

Anticipating this conclusive objection to his 'uncontrovertible evidence,' Mr Skene makes an attempt to obviate it, and, in doing so, only involves himself in greater difficulties. 'Although Columba,' says he, 'is very frequently mentioned as conversing with the Picts, there are but two occasions on which any such expression is used, and in both passages the expression of Adomnan is *exactly the same*, viz. *Verbo Dei per INTERPRETATOREM recepto*.' To this the answer which we make is simply, that it is *not true*. Indeed, the assertion proves that Mr Skene has not taken the trouble of consulting the author whom he so confidently cites. In the passages here referred to, the expression of Adomnan is *not* 'exactly the same,' but, on the contrary, remarkably *different*! In the one his words are, 'Verbo Dei a Sancto per interpretem recepto credens,' *believing the word of God received through an interpreter*; and in the other he says, *Quidam cum tota plebeius familia verbum vitæ, per interpretatorem, Sancto PRÆDICANTE viro audiens credidit,\* a certain plebeian with all his family having heard the word of life PREACHED by the holy man, through an interpreter, believed and was baptized*.' From the former we learn, that Artbrananus 'believed the *word of God*,' which he had 'received through an interpreter;' from the latter, that 'a certain plebeian, with all his family, having heard the *word of life PREACHED* by the holy

\* Adomnan in *Vita Columbæ*, lib. ii. c. 33. Mr Skene *twice* refers to the passage here indicated, and therefore ought to have known something about it. (See Vol. i. p. 40 and 72.)

‘man, through an interpreter, believed and was baptized. The expression of Adomnan, therefore, is *not* ‘exactly the same’ in ‘both passages,’ but materially different; and the *effect* of this difference will be immediately perceived.

‘It will be remarked,’ says Mr Skene, ‘that Adomnan does ‘not say that Columba used an interpreter in conversing with the ‘Picts, but merely that he interpreted or explained the word of ‘God, that is, *the BIBLE*, which being written in *Latin*, would ‘doubtless require to be interpreted to them; and the very distinction which is made by Adomnan, who never uses this expression when Columba addresses the Picts, but *only* when he ‘READS the word of God to them, proves *clearly* that they must ‘have understood each other *without difficulty*, and that there ‘could have been but little difference of language between the ‘two nations of Picts and Scots.’ (Vol. i. p. 72.) In this passage, there is an accumulation of errors. The distinction which is said to have been made by Adomnan, and the fancy that Columba read and expounded the Latin Bible to the Picts, exist only in Mr Skene’s imagination. For even if there were any doubt as to the true meaning of the words, ‘Verbo Dei a Sancto ‘per interpretem recepto credens,’ in the passage first quoted, this doubt would be entirely removed by the second; where we are distinctly informed that the Pictish plebeian, with all his family, having heard *the word of life PREACHED\* by the Saint*, through an interpreter, believed and was baptized.\* Surely ‘*preaching*’ does not mean ‘*reading*’ the word of God out of the Latin Bible and rendering it into Pictish. Besides, there was not at the period referred to a *Latin Bible extant to read from*. The Vulgate was not adopted by the Catholic Church until the beginning of the seventh century;† and as St Columba flourished about the middle of the sixth, he could not read from a version which, as yet, had no existence. Lastly, if, as Mr Skene alleges, this holy man was able to *converse* familiarly with the Picts in their own language, whatever it was, it seems altogether inexplicable that he should have required the aid of an *interpreter*, when he came to expound the word of God, or to preach to them

\* The passage in the original runs thus:—‘Illo in tempore quo Sanctus Columba in Pictorum Provinciis per aliquot demorabatur dies, quidam cum tota plebeius familia verbum vitæ, per interpretatorem, Sancto PRÆDICANTE viro audiens credidit; credensque baptizatus est, maritus cum marita, liberisque, et familiaribus.

† Hartwell Horne, *Introduction to the Critical Knowledge and Study of the Holy Scriptures*, Vol. ii. part i. c. 2, § 4.

in that tongue.\* According to Mr Skene's theory, the dragon must have been not only a superfluity, but an absurdity.

Such, then, is 'the *incontrovertible*' proof said to have been furnished by Adomnan, that the Pictish language 'was a dialect of the Gaelic.' On the contrary, we maintain that the statement of the worthy Abbot of Iona proves directly the reverse of this; and that Mr Skene has only been led to form the opinion which he has here expressed, from having misunderstood the true import of the authority upon which he professes to place his main reliance.

His *third* proof, 'that the Picts spoke a Gaelic dialect,' is, he tells us, 'derived from the *topography* of the country.' But although he assures us that this is 'perhaps the strongest of all,'—stronger even, it would seem, than 'the incontrovertible evidence' produced by him from Adomnan,—yet, as we are unable to conceive how a question as to the identity or diversity of two languages can be settled by 'topography,' we shall take leave to let it alone, and referring the reader to Mr Pinkerton's chapter on the Pictish language,† shall conclude this article by

\* Dr Smith of Campbelton, with all his prejudices in favour of every thing Celtic, is constrained to admit the fact, which Mr Skene attempts to deny or evade. 'And what appears to have been the *greatest difficulty of all*,' says the Doctor, 'he (Columba) was so little master of the language of that people (the Picts), at least of some among them, or for the first while, as to need an interpreter when he preached to them the words of salvation.' (*Life of St Columba*, p. 15, Edinburgh, 1798, 8vo.)

† *Enquiry*, Vol. ii. part iii. chap. 10, p. 339. This chapter deserves the particular attention of those who take an interest in the subject to which it relates. Innes, who labours in vain to prove that the Caledonians or Picts were Celts, has been betrayed into the most extravagant absurdities in speaking of the Pictish language. This is sufficiently evinced by the following passage, the contradictions and absurdities of which must be at once discerned by every intelligent reader. 'It was in all appearance this *analogy or affinity* of the Pictish language with the Irish or Gaelick, the vulgar tongue of the generality of the Scots in those days, and with the British, which was the language of the *Walenses* or Welsh in Gallo-way, and other parts of the west of Scotland, that upon the union of the Pictish and Scottish kingdoms in the ninth age, made the Pictish language to *disappear before* the middle of the twelfth age (*which was Henry of Huntingdon's wonder*), as if it had never been; the Picts, after the union, being by degrees all over the north incorporated into one body of people with the Scots, whose vulgar language, before Malcolm Keanmore's reign, was generally the Gaelick or Irish, left off more *naturally* the use of *their own language* and came to speak that of the Scots, because of the *affinity betwixt the two languages*! The same

producing one more instance of Mr Skene's misrepresentation of his authorities.—'Besides the general name of Gael,' says he, 'the Picts also, as well as the Highlanders, used the name of Albani or Albanaich; and an instance of this will be found in the descriptions given by the ancient Saxon writers of the Battle of the Standard in the year 1136 [1138], where the *Picts of Galloway*, who were placed *in the front of the army*, are mentioned, in charging the enemy, to have shouted as their war-cry "Albanaich, Albanaich!"' (Vol. i. p. 78.)

It is not worth while to enter here into any discussion respecting the import of the name *Albani* or *Albanaich*, as employed by the writers of the eleventh, twelfth, and thirteenth centuries; but to show the incorrectness of our author, we shall produce the authority he refers to in the passage just quoted, and which he misinterprets. In 1190, Roger Hoveden, describing the war of the Standard in 1138, that is, fifty-two years before the time at which he wrote, says,—'Exclamavitque simul *exercitus Scottorum* insigne patrium; et ascendit clamor usque in coelum, Albani, Albani.' So that it was *not* 'the Picts of Galloway,' whom Mr Skene has placed 'in front of the army,' but the *whole army* of the Scots, which together (*simul*) raised their ancient war-cry, 'Albanaich, Albanaich!' and rent the welkin with their shouts. This is but a small matter, we admit, and, if it stood alone, would not call for any particular animadversion. But in a professed historical critic and antiquary, who undertakes to pull down old systems, and to build up one 'entirely new' out of their ruins, such blunders are inexcusable; and when taken in connexion with the more serious mistakes which we have pointed out, they certainly betray a want of that accurate research, which is indispensably requisite in all historical investigations.

We have now done, and in casting a retrospective glance over what we have written, it gives us much pain to think that we have found almost no occasion on which, though very desirous to do so, we could conscientiously applaud the labours of Mr Skene in endeavouring to overthrow the opinions of his predecessors. His style, too, is extremely incorrect and inelegant. It

thing happened in Galloway and the western parts, where many of the Picts were mixed with the *Walenses*, or remains of the Midland Britons, even before the union with the Scots, and where they made a greater figure after it by the name of the *Galwegienses*.' (*Critical Essay*, Vol. i. p. 79. London, 1719, in 4to.) An author who detects an 'analogy or affinity' between the Gaelic and the Saxon, has few discoveries to make that are likely to excite the 'wonder' of any one.

literally teems with grammatical errors and miscollocations ; and is as deficient in ease and in freedom, as it is in accuracy. Another circumstance, which we cannot avoid noticing, is, that Mr Skene has appropriated much of the learning of his predecessors, particularly Innes and Pinkerton, without making those acknowledgments which were fairly and justly due to them. Mr Pinkerton, for instance, although in some respects deeply prejudiced, and, in others, perverse and wrong-headed, was a man of abilities and undoubted learning. No man at all conversant with the historical antiquities of his country can be ignorant either of the nature and extent of his researches, or of the ability and ingenuity with which they were conducted. It is very easy to apply a disparaging epithet. To render justice to merit requires judgment and discrimination, united with a due respect for the principle, *Suum cuique tribuito*. Our observations, however, apply almost exclusively to that part of Mr Skene's work which is purely theoretical. With regard to his 'History of the Clans,' though grounded on a general principle, which we conceive to be erroneous, it is a production of very considerable merit ; and many of the details embodied in it have been collected from sources which are by no means generally accessible, and which have not before been explored, with reference to Highland genealogies, or family history.

ART. VII.—*National Education ; the Question of Questions.*  
By HENRY DUNN, Secretary to the British and Foreign School Society. 8vo. London : 1837.

SINCE we last discussed the Education Bill, that important measure has been again introduced into Parliament ; and although the Bill remains as it originally stood in all its fundamental principles, the only change being in the additions which have been made, yet these additions are of a nature to demand some notice. The present article must, therefore, be regarded as a short supplement to the former.

The whole provisions relating to Charitable Endowments are taken out of the bill and made the subject of a separate measure. In these no change whatever has been made. The residue of the former bill, relating to Education alone, forms the

subject of the new Education Bill. But as the important provisions giving the power to municipal corporations to establish, and maintain, and extend, and improve schools and seminaries within their limits, by means of a rate locally imposed, have, in the present bill, been extended to places beyond the bounds of municipal corporations, to which these provisions were before confined, it becomes necessary to explain how this is effected.

The reason why those provisions were confined to municipal corporations was, that no bodies existed to whom the powers conferred upon the Town-Councils could be intrusted. There were manifest objections to bestowing these powers upon the Justices, because they are not a representative body, and the powers were those of taxation. The constitution of Vestries was also ill-adapted to the purpose. Grand juries were liable to objections of a different kind, but, if possible, more insurmountable. The friends of the bill, therefore, on its introduction in February 1837, stated that they expected a measure recently announced in the Commons, for establishing County-Councils to manage the local taxation, and to be elected by the rate-payers, might pass that branch of the legislature; and that it would afford an easy and convenient means of extending the provisions of the Education Bill from municipal corporations to the rest of the country. The County-Council Bill was thrown out in the Commons by so great a majority as left little or no prospect of its being carried; and it therefore became necessary to add provisions to the Education Bill, with a view to supply the machinery required.

In this state of things it was strongly contended by many well-wishers of the measure, that the Board of Guardians under the new Poor Law afforded the kind of body so much wanted. But besides that these Boards do not exist in every part of the country—above one-fourth of it, and including the manufacturing districts, where schools are much wanted, being without such Boards—the controversies to which the new Poor Law has given rise, and with which unhappily many parts of the country are still heated, ought by all means to be kept as far removed as possible from the system of education; which, to succeed at all, requires that popular feeling should be conciliated in its favour;—not to mention the injurious tendency of any connexion between the schools to be established or supported by the new measure, and arrangements of an eleemosynary kind.

It is, therefore, abundantly clear, that there was a necessity for providing some local body which might stand in the same relation towards the Central Board on the one hand, and towards

the inhabitants of the district on the other, as the Town-Council does within the bounds of a municipal corporation. The fundamental principle of the measure was to give the representatives chosen by the people in each corporate town, the power to plan and extend schools, with the consent, and subject to the review of the department of public instruction; and for this purpose to levy school-rates upon the town. The concurrence of the Central Board being required to any such plan of a school, and to any such rate, precludes the abuse of the majority in the local body over the minority, and prevents jobbing for party and personal purposes. The concurrence of the Local Body being required, precludes the interference of the Government with either the course of the education, or the choice of teachers, or the rules and the management of schools; while it also prevents the mistakes which might be committed from ignorance of local circumstances, and secures the adaptation of each seminary to the habits, the wants, and the resources of the place in which it is established. If the two authorities, the Central and the Local, cannot agree, there will be no school established at the public expense. Matters will in that district be left to the voluntary efforts of individuals, until the requisite agreement between the Board and the Local authority can be attained. Now this being the main principle of the measure, the question was, how a body should be formed in places beyond the bounds of corporate towns, capable of acting in respect of education, as the Council are to act in these towns? The new clauses of the bill thus provides for this want.

In each parish not being in a corporate town, a *School Committee* is to be chosen, if the majority of the inhabitants having a right to vote, at a *school meeting* called for the purpose, by any six inhabitants, shall think fit. The school committee is to consist of five; and for the purpose of at once maintaining a due control of the inhabitants, and of guarding against sudden changes in the system of education, one of them is to go out each year; but that one to be re-eligible. The Committee is to stand in the same relation to the Central Board, or Department of Public Instruction, as the Council does in the corporate town. It is to propose the plan of such schools as it may deem wanted in the parish, and to settle with the Board the rules for their government. It is then, if the Board authorizes a rate, to levy, apply, and account for that rate. In case two or more small parishes are close together, each of which may be unable to support a school, these may be united together and form a *school union*. Rules are laid down for levying the rates, and for distributing them, and accounting and auditing. There are also rules prescribed for keep-



ing the minutes of the Committee; and for obliging the members to give in writing the reasons of their opinions on the questions decided by them—an excellent method of securing due attention in their deliberations—of maintaining the responsibility of the members, and of conveying full information of all particulars to the Central Board.

The construction of the School Committee is now to be explained; and this embraces two points,—the qualification of its members, and the qualification of the voters. As the power of taxing is, subject to the approval of the Central Board, vested in the School Committee, its members are required to be themselves rate-payers. But the right of voting for the members of the Committee is more extended; and this forms, perhaps, the most important part of the new clauses. An *education-qualification*, or *knowledge-qualification*, is introduced, and it is thus contrived:—

The Central Board is authorized to enroll all Mechanics' Institutes, Literary Associations, Societies for Education—in short, all bodies, whether corporate or not, which are now, or may hereafter be formed for the purpose of literary or scientific enquiry or instruction—for extending, acquiring, and diffusing information in science, art, or letters. It is provided that the names of all ordinary attending members of these associations should be enrolled; and each member who has been such for a year, or before enrollment, is to receive a one-year's certificate; and each member who has been such for three years at any time, is to receive a three-years' certificate. The former, with a year's residence, is to give a right of attending and voting at all school meetings held within a given time after enrollment; the latter, with the like residence, is to give a perpetual right of attending and voting. But, besides the enrolled members of such institutions, the education franchise is given to all who have attended a given time at Inns of Court and of Chancery, at the established Colleges, and finally, and most materially, to all who have certificates of having attended duly, after reaching a given age, for so many years at any school enrolled under this act—that is, any school subject to the visitation of the Central Board, and whose rules and regulations have been approved of by the Board. Such certificates, with a year's residence within the parish, or School Union, is to confer the right of attending and voting at all school meetings for that parish or union. All rate-payers, and all owners of rated property, are also qualified.

This qualification is framed upon the assumption, that the persons so selected from the rest of the community are of respectable station, either in regard to property or by their education and

habits; or that they are entitled to vote because their property is liable to be rated for school purposes. The suffrage thus given is certainly very far from unusual—for this qualification excludes persons of no information, and persons of dissolute and idle lives. It may happen that a man after being well educated should fall into bad habits and lose much of what he had learned. It may happen that a mechanic, once respectable, and who had for three years taken pains to instruct himself at an institution, should become dissipated and reckless, and cease to take an interest in mental improvement; but the like may too often be truly said of rate-payers or of ten-pound householders; and, in the great majority of instances, the fact of having once had a thirst for knowledge, and taken pains to acquire it, affords a good security that the individual is of respectable habits, and is qualified to exercise the right in question.

Let it be calmly asked, apart from all question of Parliamentary reform,—with which we do not wish to mix up the present measure,—if any thing can be conceived more reasonable than that the choice of a body for managing the education affairs of a district should be vested in the well-educated portion of its inhabitants? Is any one silly enough to refuse his assent to this undeniable truth, for fear of the same franchise being afterwards extended, and made to regulate political elections? We see no kind of harm that could arise from its being so extended as to secure a sound and safe and rational constituency to every Town Council, to every parish vestry, to every Parliamentary representative. Instead of universal suffrage, with all the many mischiefs that are so justly apprehended from it, this is in every important respect the very reverse: above all, it excludes men of no respectability, of dissolute lives, of grovelling tastes, and men devoid of information;—it secures us against the evils which arise from committing an important trust to the hands of men unfit to exercise it;—men incapable from ignorance of forming a sound opinion, or prone from profligacy to be the tools of others. But although we see great good, and no risk, in such an extension of the principle, it is now only proposed to introduce it into the elections of school committees; and surely there, of all places, it is peculiarly appropriate.

The only other material addition now made to the Education Bill, regards the great subject of Religious instruction. It is plainly impossible in schools to which all must contribute without religious distinction, that any rules of a nature calculated to exclude one sect, or give any description of believers a preference over the rest, could be permitted. There is no possibility, therefore, of enforcing religious instruction according to any one par-

similar doctrine rather than another. But the Bill most properly requires that the Bible shall be one of the books read in all schools to be aided and sanctioned by the Board. If any local body chooses to refuse complying with this condition, then there can be no school under the act in that district; and all must be left to the exertions of individuals as at present. But wherever the public assistance in any way is to be given, the Bible is to be one among the books read in the school. In case, however, objections should be made by Catholic or by Jewish parents to their children reading in the Scriptures as one of the school-books, it is expressly provided, that no child of such parents shall be obliged to be present at the Bible lessons unless the parents desire it. Every one, we think, must admit that this arrangement secures, on the one hand, a due respect to the Scriptures in all national seminaries; and prevents, on the other, the possibility of any hardship to the Catholic or the Jew, whose conscientious scruples make them averse from the use of the Bible as a school-book.

The propriety has been mooted of having any one kind of local machinery; that is, of having school committees in corporate towns as well as in other places. Why, it is said, should the school concerns, where there is a municipal corporation, be intrusted to the town-council chosen by householders alone, and not to school committees chosen according to the knowledge-qualification? The answer is, *first*, that there is a manifest convenience in having only one body to manage all the local concerns of a town; and that there would be inconvenience in having a council acting in all other affairs except education, and a committee, differently chosen, acting in matters of education alone. But, *secondly*, if it should afterwards be deemed expedient to make the system general, there will be no difficulty in extending it from the other districts, to those under the management of the municipal authorities.

It is necessary to add one or two remarks in order to remove objections which have been raised by persons not attentively reading the Bill: indeed, a perusal of the full abstract which accompanies it would have sufficed to prevent all such misapprehensions. Of course, we now allude to the difficulties made by the friends of the measure only; because with the enemies of education it would be vain to engage in any conflict.

It has been said that the powers and functions of the Central Board are not sufficiently defined; and that therefore the course of their proceeding cannot be distinctly known, nor the limits of their authority be discerned. Now nothing can be more erroneous than this; but it is an error which arises from not steadily keep-

ing in view the main principle of the whole measure—to wit—the leaving all details as much as possible in the hands of the people in each district, or their representatives for local purposes, and only interfering to prevent abuses. The power of the Central Board is most absolute in one direction; it can negative the establishment of any school at the public expense, by refusing either a share in the Parliamentary grants, or a power to levy a school-rate. This it may do, either because the wants of the district do not require a new school; or because there are funds enough by voluntary contribution already; or because, although a school is wanted, the plan proposed for it is pernicious or injudicious,—founded either on erroneous principles, or on intolerant and oppressive views. Nothing can be more clear and definite than this power, or rather this control. But on the other hand, the Central Board has no power at all of forcing any school, or any plan or regulation respecting any school, upon any district. It can only say to the local authorities—“Upon your plan, you shall have no aid from the public purse or from local rate; but if you choose to give up such and such an erroneous principle, or to adopt such and such a sound one—then we will give you a share of the grant, or authorize a rate for your school.” If the two parties cannot agree, nothing prevents the foundation of the school at the expense of individuals on the erroneous principles; because it is the rule which runs through the whole measure, that the State has no right to prevent men from employing their own funds in their own way for purposes of education, and that the State must never interfere in the work of instruction, except to help, to advise, and to co-operate. The power of inspecting and examining all schools aided or founded under the authority of the Board, is also given to the Board; but this is still on the voluntary principles; because no schools can ever come under that authority unless the people or their representatives for local purposes have themselves desired it; and where there is the public aid asked and given, there must be the public superintendence exercised.

So much for the powers of the Central Board, representing the State. But their functions are in truth as well defined: the only matters left unspecified being those which are purposely intrusted to discretion, and, varying in each place, can never be made the subject of positive enactment. Again, the fundamental principle must be kept always in view—namely, that the joint will, or discretion of the local and the central authorities, is in all details to be the guide. The Board, indeed, having the distribution of the public grants, is in one matter, which is of an unusual kind, and connects itself with no local circumstances, to decide without any

concurrence of the local authorities,—to wit, in establishing Training or Normal Schools for teaching Masters. We will not affirm that even in this most important matter, some local check of a mutual kind might not have been desired ;—as by forming a Council of education for the whole of a large division of the country, and requiring the assent of that Council, chosen by the Town Councils and School Committees, before the Central Board could establish a Training or Normal School within the division. This we have reason to know was at one time in the contemplation of the authors of the measure ; and it had the recommendation of giving symmetry and uniformity to the plan, by making the fundamental principles of mutual control or joint assent universally prevail throughout the system. But we think it has wisely been abandoned, because there is nothing at all local in the establishment of a school for training Teachers ; these may be educated any where ; and the schools of one division of the country may obtain Masters qualified in another division. But with this exception, all the functions of the Board are to be exercised in concurrence with the local authorities.

Now, can any thing be more easily apprehended than the work which the Board will have to do ? By its inspectors, and by whatever other means information can best be obtained, it will be acquainted with the state of all schools, either publicly supported, or which voluntarily choose to submit to examination. Its advice and suggestions as to their conduct and improvement will be given. Accomplished masters will, under its superintendence, be formed at the training seminaries. These will be ready to supply the want of good teachers, wherever the patrons and other managers of schools require them. It is indeed sometimes said, that the Bill is silent as to the choice of masters. No doubt it is ; and purposely for the most obvious reasons. The Bill does not profess to take the management of schools, or the work of education, out of the people's hands ; but only to help the people, or rather to enable the people to help themselves in this great and good work. Who ever dreamt of giving the government, in whatever hands it may be, the appointment of all the fifty or sixty thousand schoolmasters all over the country ? If any one ever harboured such a thought, assuredly it was not the authors of this Bill. According to the variety of local circumstances, a schoolmaster will be chosen one way in one place, and another way in another ; and although ultimately there will, in all likelihood, be some plan very generally adopted for choosing and dismissing masters, no such rule could be laid down in a system, the very essence of which is to influence as little as possible by authority, to force nothing at all, and to leave as much as possible in

the people's hands. In like manner, though the best training seminaries will be established, and the most accomplished teachers formed in sufficient numbers, no provision is made for removing the worst teachers and supplanting them by these. Why? Because entire confidence is reposed in the patrons of schools, that when the best teachers are to be had they will be preferred. And thence, moreover, an evident check arises upon the management of Training Schools, for the masters furnished by them will be selected by different schools, if they are well educated, and not otherwise.

Again, the functions of the Board in granting or refusing public aid, or the power to levy local rates for school purposes, are as well defined as they ought to be, or indeed can be, without an oppressive and vexatious meddling, wholly repugnant to the whole policy of the measure. What can be required more precise, for example, than the provision that if the Board is not satisfied a school is wanted in a given district, it may refuse its authority to levy a rate? Would they who call for more specification have had the bill state a proportion of schools to population? But then extent is also to be regarded. Would they have had some corresponding ratio of numbers and extent specified? But then the funds also in the district, and, above all, the means arising from voluntary contributions, are to be considered. Again, the schools in the neighbouring districts and their distances, must also be taken into the account. In short, any specification is manifestly impossible, and would cramp and wholly prevent the working of the measure. Again, the Board may refuse its sanction to a proposed school, not because the district is sufficiently supplied, but because the rules submitted for approval are injudicious and intolerant. Could any maxims be prescribed in an act of Parliament, for a Code of School Laws? Clearly not, because one law may suit a school in one place, and yet be wholly inapplicable to a school in a different district. Nay, one law may suit a school for one class of persons, and be wholly unsuitable to another kind of school in the same street of the same town. So there is no course laid down for teaching either masters or scholars; but the things to be taught in the Training Schools are left to the Board; and the things to be taught in the ordinary schools are left to the joint discretion of the Board and the local authorities. And why? Because it is not possible in an act of Parliament to specify what shall be taught in every one school. Some require reading and writing alone—others add ciphering to these elementary wants—others, all it is to be hoped—ultimately add geography, history, and physical knowledge: but some, as infant schools, may require reading alone—nay, some may require not even reading, as schools for the youngest infants. If, then,

an act of Parliament were to specify what should be taught, it would either contain the most absurd and impracticable of all provisions, or to make it tolerable, it must have a saving clause that would render the whole nugatory and inoperative—to wit, ‘if the Board and the local authority shall think fit.’ So that under pretext of specifying, it would specify nothing at all, but only give rise to constant cavils among the parties, and to endless litigation upon the question of *imperative* and *directing*, so well known among lawyers.

The same remark applies to all differences that may arise between the Central and Local authorities upon the other parts of the rules proposed for any school, or those existing in any school for which the aid of the Board is required. If the bill laid down general rules, these could not be applied in each case; and as even the best devised general principles must require modification in order to their being adapted to local circumstances, it is plain that no inflexible canon could be prescribed by the statute. Some clause must be added which would leave a discretion in the Board, and the Local Body; and that clause would leave the functions of the two bodies precisely where they now are, besides laying the foundation of endless perplexity and dispute.

It must further be observed, that the flexibility given to the provisions of the bill enable them to be moulded according to the improvements continually making in practical education, as in all other branches of policy. To take an instance—some years ago the best friends of education thought the Monitorial System more adapted to instruction than it is now allowed to be by pretty general consent. Educators would at that time have formed their rules for the number of scholars who could be well taught by a single master, upon a very different principle from that which they would now maintain and act upon; and so of the things to be taught; and still more of the best method of teaching them. These matters are not properly the subject of legislation; they must be left to the discretion of the parties concerned.

The function mainly intrusted to the Central Board being steadily kept in view, at once precludes the possibility of doubting how far its authority extends; how its proceedings are to be conducted; and how education is to be regulated, or rather helped by it. That function is to direct the application of public support towards schools, and to enable local bodies to obtain that support upon proper terms; but to leave the education of the people, though helped and improved, yet uncontrolled where the people prefer following their own course.

We have been only now dealing with the remarks and difficulties of those who have considered the measure with some atten-

tion, though not sufficiently examined it. The more careless reasoners upon it can only be referred to the bill, and the abstract, for removing the doubts which their very slight perusal of it has created. Thus it is supposed by a few individuals who have published their observations, that the Board are empowered to establish schools and lay down rules as they please. This mistake arises from inattention to the nature of a legislative provision. The powers are given in general terms, but their exercise is specifically defined. The Board has no power whatever to found any school except the training schools; or to lay down any rules or regulations for conducting any school: the managers of the school—be they private contributors, or masters, or town-councils, or school-committees—must assent to every particular before any school can be either established or controlled, or in any way affected by the Board or by the bill. Even as to training schools, which are wholly to be supported by the Parliamentary grants, the House of Commons has the control over the Board, because the funds are annually voted.

The like remark, as to inattentive perusal, may be made upon the observations which we have lately seen made by some professing a very friendly disposition to the measure, but apparently not much inclined to approve the quarter from which it proceeds. The provisions, say they, are likely to please neither party, going too far for one, and not far enough for the other. But a very cursory perusal of the bill must show, that short of a compulsory system, which almost all Educators seem to be against, the measure is quite as universal as it could be made; and must of necessity give the country a general system of education, unless the people should all of a sudden become averse to having their children taught. And it is equally manifest, that no measure of any kind would suit the views of those who either hate the Government, and are against all education, or who willingly agree to have as much doled out, and of such a quality, as one class in the community chooses. To conclude, as the reasoners in question do, that every plan which can be devised would be objected to by all parties, is only to affirm that nothing can be done by the State for education. But it is also to mistake the fact; and, at all events, it is to begin by assuming that we are defeated, instead of waiting for the result of the conflict. If such be the only support for which the cause of education can hope from its friends, it may well be asked how much less it could have to dread from its enemies. Let us, however, be comforted with the reflection, that the support given to this measure by the present Government may mitigate somewhat of these *amicable propensities*.



ART. VIII.—*Speech of the Earl of Mulgrave on the State of Ireland, in the House of Lords, Monday, 27th of November, 1837.* 8vo: London.

**T**HAT the Tories understand how materially their chances of regaining power would be damaged were the people of England once possessed with the belief that the experiment, now in course of trial, of governing Ireland upon liberal principles, has thus far been successful, is evident from the untiring energy with which they labour, as well in Parliament as out of it, to produce the opposite impression. The Tories themselves, therefore, teach us the importance of placing the results of the present system of administering Irish affairs clearly and repeatedly before the public; and the advantage which the general interests of the empire must derive from the wide diffusion of such information.

There cannot, then, be too much discussion upon every question connected with Ireland; but Parliamentary discussion is, of course, the most desirable, from the superior attention which proceedings in Parliament command, and the opportunities there afforded to the members of the Government to defend their measures; not to speak of the general advantages which, in all oral discussion, accrue to the side of justice, from the prompt exposure which calumny meets with, and the summary punishment inflicted upon absurdity or falsehood. The Tories should, in prudence, reserve their attacks on the Irish administration exclusively for their Journals; for a newspaper fiction, however ludicrous or monstrous, has always a day to live, and is sure, in some quarter or another, to find an open ear. In debate it is another thing; for there, the moment an untruth is hazarded, truth starts up and grapples with it; a preposterous statement is scarcely made, when ridicule pounces upon it, and makes it the public sport. Assertion will not suffice; charges require to be specific, which is often found inconvenient; this species of conflict invariably terminates in the discomfiture and disgrace of the party opposed to truth; and, worse than even the defeat is the quantity of good ammunition wasted; for a falsehood once knocked on the head on the floor of Parliament, requires considerable rest and nursing before it is again fit for duty.

The late debate in the House of Lords, provoked by the motion of the Earl of Roden, strikingly illustrates the gross error in Tory tactics to which we allude. That debate has scattered an army of falsehoods, which but for so untoward an event,

might long have passed muster at Tory banquets and in Tory Journals, and has thrown a flood of 'new light' upon the state of Ireland. We are indebted to it for the statesmanlike production now before us; we are indebted to it also, as having been the means of eliciting the testimonies of such men as the Duke of Wellington and the Earl of Donoughmore to the vigour and efficiency with which the law has been administered by the present Irish Government. When it is recollected that the heaviest charge against this Government has been the impunity, nay, encouragement, which it has been alleged to extend to crime, the importance of these admissions, and the prudence of the step which called them forth, may be estimated.

Were we to regard the speech before us as a mere reply to that delivered by Lord Roden, we should not only underrate its value, but misapprehend its object. The truth is, that the speech of Lord Roden called for no reply whatsoever. The details of three or four atrocities, none of them half so good a subject for a melodrama as many which, in the same space of time, were perpetrated in England,—a piece of tea-table chat about an importation of arms from Liverpool, with a pleasant story of a Ribbon conspiracy, filched from an evening newspaper, but shorn of all the merit of the original conception—such were the portentous disclosures which were to blast the character of the Irish administration! Well might Lord Mulgrave demand, when he contrasted the puny whine of his opponents in Parliament with the furious roar with which his Government had been assailed out of doors—'Supposing I made no reply at all, and left any thing out that can be extracted from his (Lord Roden's) speech to be compared with what has been written and said behind my back, need I fear the impression upon the country?'

Lord Mulgrave, however, wisely availed himself of the opportunity afforded him to submit to the country this luminous exposition of the tenor of his government—the grounds upon which it appeals to the confidence and affections of the people—and the complete success with which that appeal has been answered. To demonstrate that success, it is enough to exhibit a progressive amelioration. This is all for which the Government takes credit; and in their exertions to effect this amelioration it will be seen that the noble Earl bears cordial testimony to the zeal with which the people have seconded his exertions.

'It is sufficient for us that we see every reason to believe that the improvement is upon the whole progressive. We do not pretend, my Lords, to any magic charm, we make use of no animal magnetism to draw the hearts of a willing and peaceful people to their Sovereign and her Government; we depend, my Lords, entirely upon the natural result

of cause and effect; we endeavour to induce a reciprocal feeling of confidence between the governors, and the governed; and our influence is founded on the reliance of the people on the administration of justice, and on the feeling which pervades all the nation that the English will unite in procuring for Ireland that justice which she has not formerly experienced.'

We shall proceed to avail ourselves of the full information which this speech affords; and, with the help of the materials thus placed in our hands, present a picture of the condition of Ireland, which at length may be contemplated by the philanthropist and the patriot with strong feelings of satisfaction.

Notwithstanding, then, the cry that has dinned our ears, of the anarchy that prevails in Ireland,—of the omnipotence and impunity of crime,\*—of the total prostration of the law,—we fear not to try the condition of that country in all these respects, by the severest test to which any country can by possibility be submitted. We shall at once compare it with the state of England—that favoured land, where habits of obedience to the law are the result and growth of ages of popular government. Is this a fair test, or is it not?

Ireland, containing a population plunged in destitution—one-fifth of whom subsist upon those alms that charity, well-nigh exhausted, can afford—where the law has been regarded as the instrument of a faction, and not the safeguard of the people. It is such a country, and such a people, urged on to turbulence and crime by all the incentives of poverty acting upon ignorance, that we proceed to compare with a country flowing with plenty, with a people taught by long experience to look up to the law as their benefactor and protector.\*

Let us compare the amount of crime in Ireland, in 1836, with that in England during the same year. It was the second year of Lord Mulgrave's administration, and was marked throughout

\* In our last Number a comparison was instituted between the committals and convictions for crime in England and Ireland during the year 1836, which, without some explanation, might lead to an erroneous conclusion as to the state of crime in the two countries. The amount of convictions in Ireland (including all convictions whatsoever, whether had at the assizes, quarter sessions, or summary convictions) was compared with a list of convictions for England, which contained *only* those which had taken place at the assizes and quarter sessions, and not the summary convictions. Now, when it is remembered that these latter, in the year added to, 1836, amounted to 53,270, it is apparent how fallacious any comparison between the two countries, from the mere convictions at the assizes and quarter sessions, must be.

by a course of exasperating litigation, to which the clergy of the Established Church (thanks to the rejection of the tithe-bill of 1834 by the House of Lords!) were led to resort, to levy their present unpopular income.

We shall exhibit *first*, the relative amounts of the convictions at the assizes and quarter sessions in both countries, and we find that they appear as follows :—

Convictions at the assizes and quarter sessions in Ireland for the year 1836, returned by the clerks of the Crown and peace,	10,581
Convictions at the assizes and quarter sessions in England and Wales, for the year 1836,	14,771

Now, when it is remembered that the population of Ireland is to that of England in the proportion of 8 to 14, we perceive an advantage on the side of the latter country. We see one criminal in every 800 in Ireland; in England but one in every 1000; yet this inferiority on the part of Ireland is assuredly not so marked as to justify us in appealing with pride to the tranquillity and orderly habits of the English people, and at the same time to designate Ireland as a country abandoned to lawlessness and crime. But let us extend our views—let us look to another and no less important feature in the state of the two countries. Let us see how a comparison of the summary convictions, had in the same year to which we have alluded, will bear out those whose constant cry it is, that nothing short of Lord Mulgrave's instant recall, and the application of the old Tory remedies—an Arms bill and the bayonet, can hold society in Ireland together.

Summary convictions in Ireland in 1836,	8,000
Summary convictions in England and Wales in 1836,*	53,270

Now add the convictions exhibited by these two tables for the two countries severally, and we have then before us the relative amounts of all the convictions for crime of every description whatsoever, from murder down to the pettiest theft, or the most trifling misdemeanour.

Total amount of convictions of all kinds in Ireland for 1836,	18,581
Total amount of convictions of all kinds in England and Wales for 1836,	68,041

That is, one criminal in England for every 212 persons; in Ire-

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\* Taken from the Second Report of the Inspectors of Prisons—Appendix.

land one criminal for every 450. Now the man who can read this appalling statement, and not tremble every inch of him at the frightful state of Ireland as compared with England, must have nerves of iron and a heart of stone. Far be it from us, however, to conclude from the foregoing tables (however a transitory glance might entitle us to do so), that demoralized habits are not more prevalent in Ireland than in England. We are aware that some of the very circumstances that swell the convictions in England bespeak the superior habits of the people. There is in England a prompt appeal to the legal tribunals, a confidence in a magistracy popular as compared with that in Ireland, and a general facility of obtaining magisterial interference;—these are features universally conspicuous in England, which but lately have begun to appear in the aspect of society in Ireland. Moreover, there are laws in force in England and Wales under which many of these convictions have been had,—such as game laws, bastardy laws, and vagrant acts,—that do not apply to the other country: nevertheless, making allowance for all this, we conceive that man wholly unworthy of a seat in a legislative assembly who, duly considering the comparative statements of crime we have exhibited, can summon up hardihood enough to declare, with a pious Viscount, that ‘Ireland is in a worse state at present than in 1798.’

Let us now see whether in those violent and sanguinary crimes, for which Ireland has hitherto obtained an infamous notoriety, we find any foundation for those tales of horror which have made the flesh of ancient dowagers creep, and opened their purse-strings to the call of Mr Spottiswoode. It is in respect to this class of crime that Ireland, as compared with England, has exhibited a demoralization so melancholy. It is here that the ferocious dispositions, engendered by governments whose engines of redress and instruments of amelioration were the cat-o-nine-tails and the bayonet, show themselves. It is here that the effects of a wise, humane, and popular government must be looked for. Crimes of a less heinous nature, such as larcenies and the like, will prevail under all governments, while men are men, and are often as much a symptom of national prosperity as of popular depravity. What find we then under this head? that insubordination has increased? that the popular dispositions are waxing more ferocious? that 1798 was a golden age compared with the present period? Let the following table answer.

Table of offences reported by the constabulary during the first nine months of the years from 1832 to 1837 inclusive. The offences enumerated in these returns are homicide, firing at the person, cutting and maiming, assaults, abductions, rapes and attempts to ravish, levelling, burglary, burning, attacks on houses, demands or robberies of arms,

oaths unlawfully administered, illegal notices, or meetings, riots, faction-fights, rescues and resistance to legal process.

1832	.	.	.	7,460
1833	.	.	.	6,547
1834	.	.	.	6,016
1835	.	.	.	6,645
1836	.	.	.	5,384
1837	.	.	.	3,748

[The period of nine months is adopted—the constabulary returns for 1837 not being yet made up for the last three months of 1837.]

Look to the year 1835, of which the commencement was signalized by the sway of Lord Haddington, and see what three months of a Tory administration can effect in checking the course of improvement. In the first nine months of 1835, crimes only amount to 6645, while in the corresponding period of 1837, after Lord Mulgrave has been for two years winking at the commission of every atrocity, they sink to little more than half the number. Never was there a failure more complete than that of Ireland's present viceroy! The sole end of his administration has been to encourage turbulence and promote disaffection! Deaf to the cries of suffering loyalists, his ears are open only to the felon; he connives—nay, it is whispered, presides at the orgies of Ribbon-men—and yet no bloody harvest crowns and repays his toil, but habits of tranquillity and order spring up all around him.

We will, however, make another effort to vindicate the veracity of the Rodens and the Lortons, and preserve them from the blight of ridicule. We will examine the mode in which the law has been executed in Ireland; and here, no doubt, according to the testimony of these good men, a sad and boundless anarchy will present itself.

The conviction of a criminal (save where he is a Protestant) is an event, no doubt, of as rare occurrence as a comet's apparition. We have shown by the last table, the marvellous diminution since 1832 of those aggravated offences that betoken insubordinate habits. See how, in the interval, the law has been suffered to slumber! We subjoin a list of all the committals and convictions which have taken place in Ireland from 1832, to 1836:—

Years.	Committals.	Convictions
1832	16,056	9,759
1833	17,819	11,444
1834	21,381	14,253
1835	21,305	15,216
1836	23,891	18,110

Thus then it appears, from viewing together this and the preceding table, that while crimes of the worst description diminish to one half of their amount, the committals for *all* offences increase by something less than one-half, and the number of convictions doubles. This progressive growth of convictions upon committals, rising from the proportion of one-half to that of 18 to 23, whilst it entirely negatives the existence of any system of intimidation, acting either upon witnesses or jurors, testifies also to the admirable working of the various measures taken by the Government to improve the whole machinery of public justice. Let us, however, look to offences of the most heinous nature, and see whether even in those cases, intimidation on the part of the people, or supineness on the part of the government, have prevented the execution of the law. We cannot do better than avail ourselves of Lord Mulgrave's words—

‘ If I can prove that the number of committals bears a greater proportion to the number of outrages committed, and that the number of convictions bears a greater proportion to the number of committals, at this time, than in any former period, the Noble Duke will, I am confident, admit that it is a highly beneficial result. The first thing to which I shall call the attention of your Lordships is a summary of the returns furnished by the Inspectors of Prisons from 1832 to 1836, and including the first nine months of 1837, which, in fact, corresponds, as far as the more serious offences tried at the assizes are concerned, with the returns of the former years, inasmuch as the offences committed in the last three months of every year, or rather after the summer assizes, are included in the returns of the succeeding year. Without troubling your Lordships with minor offences, I shall confine myself to the crimes of

Murder,  
Manslaughter,  
Shooting,  
Stabbing,  
Administering Poison,  
Administering, with intent to Murder,  
Conspiracy to Murder.

‘ These offences are all tried at the assizes.

	Committals.		Convictions.
‘ In 1832 there were	772	and	203
1833	820	.	303
1834	520	.	315
1835	922	.	409
1836	843	.	425
From Jan. to Dec. 1837	547	.	229

‘ In the course of five years, according to this statement, the committals had on the whole increased; in 1835 and 1836 there was a decided

increase, and this is the first year since I have been in Ireland in which they have diminished.

'This I consider establishes the fact which I wish to impress on your Lordships. I conceive that, according to the greater efficiency with which the law is administered, the greater will be the number of offenders arrested, tried, and convicted, in proportion to the offences committed. One of the ingredients given by the Noble Earl, as a proof of the increase of crime, was the increased number of proclamations in the Gazette; but he evidently cannot derive any advantage in argument from the increased numbers of proclamations in the Gazette, when it is proved by the returns that the number of outrages is diminished.'

Assuredly unblushing assertion never went so far, as when the proclamations in the Gazette were appealed to, as they have been, day after day, by the Tory faction, to demonstrate the increase of crime, when, in the same breath, they assailed the Irish Government for supineness in suppressing it!

Such, then, is the condition of Ireland, as regards the moral habits of its people. We compare it with England in the amount of all convictions whatsoever, for every class, and description of crime, and we find in England one conviction for every 212; in Ireland one conviction for every 1000 persons. We compare its present condition with that which it exhibited two years since, and we find, in that short span of time, a diminution of one half, in those offences that have hitherto disfigured the character of her people, and borne a fearful likeness to those long oppressions, of which they are the genuine and undoubted offspring; while, step by step, with this decrease of crime committed,—demonstrating as it does the improving habits of the people,—is found the vast increase of that, which manifests the vigilance of the law, and the absence of all intimidation—the number of convictions. With good reason did the Duke of Wellington, with that fairness and straightforwardness which blend so gracefully and nobly with his great qualities, declare, that under no former viceroy has the law been administered with the same efficiency as under the present chief governor. To one more feature we must point, and then we leave the public to settle the amount of credit that should hereafter be attached to the statements of Conservative orators, whenever it shall please them to descant upon the giant crimes that stalk unpunished through Ireland. In but one district (a barony in Tipperary, the old inheritance of crime) have the magistrates,—albeit not slow to proclaim the growth of turbulence, or demand measures of rigour and coercion,—called for stronger measures than the ordinary powers of the law. And in this very district, tranquillity, if not already restored, is fast returning, without the aid of any measures unknown to the constitution.

It is now thirty-seven years since the following tribute was



paid by the great champion of the oppressed in all corners of the earth, to the character of the Irish people. 'I love the Irish nation,' said Mr Fox. 'I know a good deal of that people. I know much of Ireland from having seen it; I know more from private friendship with individuals. The Irish may have their faults, like others. They may have a quick feeling of injury, and not be very patient under it; but I do affirm, that, in all their characteristics, there is not one feature more predominant, in every class of the country, from the highest to the lowest order, than gratitude for benefactions, and sensibility to kindness. Change your system towards that country and you will find them another sort of men. Let impartiality, justice, and clemency take place of prejudice, oppression, and vengeance, and you will not want the aid of martial law, or the terror of military execution.' For years the English people contemned the advice of this illustrious statesman. Every succeeding year saw new measures of 'prejudice, oppression, and vengeance' let loose upon Ireland, producing a temporary quiet, but sowing fresh causes of national demoralization and disturbance. At last the change wished for by Mr Fox came over the spirit of their councils; Lord Mulgrave was sent to Ireland; and in his train were found, not the old and haggard attendants of Irish viceroys, 'prejudice, oppression, and vengeance,' but the young and blooming pages, 'impartiality, justice, and clemency.'

At the vast obstructions which the Government has had to contend with, and in the face of which it has accomplished so much for the welfare of Ireland, we can only afford a glance. They may be divided into two classes,—one resulting from the protracted opposition of the House of Lords to necessary reforms; the other arising from the incessant efforts of the resident Tory aristocracy to counteract the policy of a liberal Administration. With reference to the state of destitution, which so unfortunately characterises the mass of the Irish peasantry, and the effect of that deplorable condition upon the public tranquillity, Lord Mulgrave expresses himself as follows:—

'But, my Lords, whilst in connexion with political tranquillity thus produced, there is this desire, on the part of the Government, to give to every moral feeling a proper direction, we cannot expect that this feeling, on the part of the Irish people, will be complete whilst there exists in full force one vicious ingredient in the social system, which has reduced the mass of the population to the lowest level, I may almost say, of destitution; and allow me to add, that there is one measure recommended in that portion of the Speech just read from the table, which your Lordships must take up in connexion with the state of Ireland, as of the most vital importance;—bring to its consideration a cool head, but be pre-

pared to act with a bold hand, for no country can be in a healthy state where there is not security for industry as well as security for property :—indeed I hold that one cannot exist without the other, and we can never expect that Ireland will be in a perfectly tranquil state whilst on this point she furnishes a lamentable exception to the rest of the civilized world.'

We have never seen the difference which unhappily exists between the relations of landlord and tenant in England and Ireland, more luminously stated than in the following passage :—

'Your Lordships must be well aware, the fact having been so frequently mentioned in this House, that much of the disturbance of Ireland depends upon, and has its origin out of the tenure of land in that country, and you must also be well aware how wide is the difference in the relative situations of landlord and tenant in the neighbouring kingdom, as compared with the situation of the same classes in England. In Ireland there is no security for industry. Land becomes a necessary of life; necessity drives hard bargains, and hard bargains beget no good or kindly feelings in the minds of those who are parties to them either on the one side or the other. But I will not pursue that part of the subject further. I will not enter into a discussion of those social relations which make so marked a distinction between the relative position of landlord and tenant in Ireland, as contrasted with the position of the same parties in happier England; it is enough to say that the general good feeling that exists in the latter is unknown or rarely to be found in the former, and that whilst, in most cases, the relation of landlord and tenant in England is one of sympathy without dependence, in Ireland it is one, too often, of entire dependence without a shadow of sympathy. Out of this unfortunate state of things arise many of the disturbances of Ireland.'

There is nothing more commendable in the speech before us, than the spirit of manly sympathy with the wrongs and sufferings of the Irish people which pervades it. The 'parental sentiment' which has been well said to be 'the true principle of Government,' impregnates it throughout. The extent to which the peasantry of Ireland were harassed in 1836, by the cruel execution of the Writs of Rebellion, is fresh in our memories. In the year which has just expired, another mode of exasperating the population, put the controlling power and healing influence of the Government to the severest test. The wearied pluralist, retiring from his avocations in the Exchequer, resigned the goad and the lash into the hands of the Tory landlord; and the persecution of the people assumed the still more appalling form of wholesale expulsion from their ancient holdings. Against this ruthless system, less the dictate of sordid interest than the gratification of religious rancour, Lord Mulgrave reclaims in a strain at once indignant and fervid. After portraying with painful fidelity the manifold sufferings of the unhappy people against

whom the sentence of extermination has in too many instances been carried into execution, the noble Lord goes on to depict the results to which these oppressions tend :—

‘ Such, I am told, is the condition of some of the tenantry in that part of the country to which I have alluded. My Lords, let those only who think that such things are right for such causes, let them, and them only, *talk merely of the crime, and think nothing of the misery of Ireland.* Nay, I will say more : if any such system is pursued—if any general depopulation of the country on the ground of religion is attempted in Ireland—I will still labour on ; I will still endeavour, as long as I am honoured with the confidence of my Sovereign, to secure the tranquillity and preserve the peace of that distressed country. The greater the difficulty, the more time will I devote ; the more numerous the obstacles, the greater the energy I will exert to surmount them, towards the attainment of that end. But I tell the persons who take such steps, that I consider them more powerful for evil than I can be for good, in the honest and unshrinking discharge of my duties. I tell them *there are depths of despair which no friendly voice can reach*, but if the people thus provoked should, be deaf to my admonitions, and escape from my control, on the heads of those who have provoked them be the painful responsibility of the consequences.’

Having established the success of his government by a chain of evidence the most complete—having shown in what quarters the true and only impediments exist to the thorough pacification of Ireland—having shattered and demolished all the charges of his enemies, either impeaching the exercise of the powers and prerogatives delegated to him by the crown, or gainsaying the beneficial consequences that have flowed from his measures, there remained but one calumny to be exposed and silenced,—the allegation of subjection to Mr O’Connell’s influence. The reply of the Noble Earl to this hackneyed charge, swept away the last falsehood that remained to be dealt with—

‘ It has been stated by persons, who must know better, that Mr O’Connell has all the patronage of the Government of Ireland. I utterly and indignantly deny the truth of that statement. Mr O’Connell, like any other Member of Parliament, requiring information from the Government, has, I admit, had occasional communications with it ; but I can confidently state that his applications have been fewer than those of any other Member of Parliament. The taunt against me is, that I have treated Mr O’Connell in the same way that I would have treated any other Member of Parliament. So I have, my Lords, and so I will always continue to do. But I fearlessly and utterly deny that the Government has been controlled by Mr O’Connell, or has consulted with him as to any of the appointments that have been made ; and as to the charge of his having uniformly given the Government his support, I honestly confess that is a circumstance, considering how much he carries with him the hearts and affections of the Irish people, that I can regard only as a

great advantage, and as one that ought not to be made a matter of reproach.'

In conclusion, we earnestly recommend the perusal of this Speech to all who honestly wish to make themselves acquainted with what has, of late years, been done towards improving and tranquillizing the unhappy country which Britain has so long and so cruelly misgoverned.

ART. IX.—*Practical Evils of Dissent.* 12mo. London: 1837.

IT is impossible to express more uneasiness than we feel at being compelled to blame the proceedings of some very worthy persons, who, actuated by the best intentions towards the cause of religious liberty, have lately been exerting themselves in its behalf certainly, but in a direction such as all its best friends deeply lament. The doctrine of those who hold that all great legislative measures should either originate with the Government, or be adopted by it, in order that there may be adequate responsibility for whatever is recommended to Parliament, appears wholly untenable; indeed it is inconsistent with the nature of an independent representative system. But it derives occasionally some sort of recommendation from the kind of proceedings on the part of individuals to which we are now advert- ing. Ill considered measures are from time to time brought forward, which receive support, in consequence of the temporary position of parties, or other accidental circumstances; and laws are made which frequently produce serious inconvenience, or are nearly inoperative, but lend a sanction to very unsound principles.

The reader will at once perceive that we are alluding to the late act for relieving persons who have conscientious scruples about making the Declaration required of all who hold certain Offices in Municipal Corporations. The declaration is intended for the protection of the Established Church; and it binds the party not to use the influence of his office against that Establishment. The whole matter of the declaration was a great blot upon the measure of 1828, which the Liberal party, then in Opposition, forced upon the Tory Government, for the repeal of the Test and Corporation Acts. It left a Test, though of a less repulsive nature, at the time that it professed to abolish all tests; and as there is much difficulty in ascertaining whether the Establishment may or may not be injured by the tendency of many

proceedings, the promise to do nothing injurious to it becomes a snare for conscientious men, and an encouragement to casuistry, if not to hypocrisy. Every friend of religious liberty must, therefore, desire to see this Declaration altogether done away with. But that is not the object of the late act, which only alters the form of the declaration, so as to enable those to make it who have no objection to bind themselves against offering injury to the Establishment, but who, having conscientious scruples about oaths, and considering the declaration of 1828 to be in the nature of an oath, object to make it, and wish to make another instead of it. Now this is the professed object of the new act; and therefore, in all consistency, and in all justice, its operation ought to have been general, so as to comprehend every class of persons, who, without objecting to the promise of neutrality (that is, official neutrality) towards the Church Establishment, do object to the terms in which that promise was corrected by the act of 1828. But such is not at all the frame of the new act: it singles out three descriptions of persons, and professes to relieve them alone. It leaves all the rest where they were left in 1828. The comprehended sects are Quakers, Moravians, and Separatists. The excluded are Jews, and all other sects having conscientious scruples about taking oaths. The Jew is excluded by the words which exclude all the others. The words of the declaration or test of 1828, 'on the true faith of a Christian,' excluded him; but these words were objected to by the Quakers and others, as partaking of the nature of an oath; which they certainly do; whilst the Jew, who does not object to any oath, however formal, was of course excluded by the substance, though not by the form of the words. The new test or declaration substituted by the late act leaves out these words; but contains a declaration that the party making it is either a Quaker, a Moravian, or a Separatist; and this necessarily excludes all, whether Christian, or Jew, or Gentile, who belong not to these three excepted sects. Upon this we are at issue with the framers of the act; and we agree with the Peers who solemnly protested against it, especially with Lord Holland,—on all occasions the prompt, steady, and enlightened friend of toleration in its largest acceptation, and who, regardless of all official trammels, and all party connexions, and all the little tribe of their personal delicacies and paltry etiquette, never fails, it may be remarked, to lift his voice for those sacred principles of religious, as well as civil liberty, to which his illustrious kinsman's life was devoted.

Our first objection and our chief, to this new declaration is, that it is neither more nor less than a test; and it is a test in the most intolerable shape. It is a test. Its language is—'no one

‘ shall partake of the benefits intended by this act, unless he can ‘ bring his mind to make this profession.’ Whoever, then, cannot conscientiously make it, is excluded; whoever can, is admitted; whoever chooses to do violence to his conscience, is let in; whoever is too honest to do so, is kept out. It is a test, and open to all the insuperable objections which have long made tests hateful in the eyes of all just men; absurd in the eyes of all thinking men; ridiculous in the eyes of all who regard consistency; and self-destructive, as frustrating the very ends for which they purpose to be contrived. Again, it is a test fashioned in the worst shape. It institutes a direct inquisition into men’s religious belief, by requiring a direct avowal of one or other of three creeds;—exactng a declaration of him who takes it, that he is of one specified faith, and none other;—and this it requires as a qualification, not for any religious function, but for one purely civil and secular. It was reserved for this act to teach the world what progress we have made in the principles of Toleration! Strange to tell, this new and inquisitorial test, which thus searches a man’s breast for his belief in spiritual things, is the produce of an advanced period of the nineteenth century, and is the handywork of some very sincere and useful friends of religious liberty! But they have framed their new test from some singular, and we freely admit, because we firmly believe, most unintentional oversight, upon the very principles which have been in all times, and in every country, the very ground of intolerance and persecution.

Next, we object to the gross injustice which the act commits against the excluded sects. These have a full right to complain of the invidious distinction which is drawn to their detriment, because to their exclusion. Their title to comprehension was as unimpeachable as that of the sects selected for admission. They are as well worthy of being trusted to declare their scruples—these scruples are as well entitled to consideration—the tenderness of their consciences has equal claim to delicate and respectful handling. But the act says they are not as other men are, and it therefore affixes a stigma upon them, which they felt far less before, when it was common to all, than they now do when some have been deemed worthy of relief, and they alone remain with the wound uneffaced.

Again, the persons relieved are so few in number compared with those excluded, that the only conceivable pretence for the unequal measure wholly fails. The Quakers are the only considerable sect of the three; and when we regard the admirable doctrines of that society,—their hatred of intolerance, their love of peace, their blameless lives, the steadiness of their devotion to their pure principles,—it would go far in gaining our assent to any

measure, if it secured any relief to them. But so far from this act offering any such inducement, no sooner did the Quakers hear of it, than they addressed the legislature to represent that they could not conscientiously make the proposed declaration, and that the new test excluded them as much as the old. It is said that there are one or two of that society who will take it. This may or may not be true; but if it is, surely a bill having a scope far less extensive than most private and personal acts, ought never to have been entertained by the legislature, when to relieve a few persons it stigmatized whole bodies of loyal subjects, and worthy and conscientious men.

The argument against the act on behalf of the Jews is met with an assertion that the object is only to remedy a defect in the act of 1828, which intended to let in the three sects, and only failed of its purpose by the oversight of supposing they could make the declaration prescribed. But this is manifestly unfounded, as far at least as applies to the argument for extending the relief now given to all who object to the former declaration as an oath. The act of 1828 did not more intend to comprehend Moravians, Separatists, and Quakers, than it intended to comprehend all other Christians who object to oaths; and it failed of its purpose through an oversight not at all confined to the tenets of these three sects. Therefore, whatever is to be said for now relieving them against the consequences of the oversight of 1828, may just as correctly be said, and in the very same words too, for extending that relief to any other sect which objects to oaths.

But let us come at last to the argument for excluding the Jews. The legislature always intended, it is said, at least to draw the line around the Constitution, excluding whoever belongs not to the Christian religion. Indeed! Is that the direction which the line takes? Then what keeps out the infidel who believes neither in the Old Testament nor the New? What keeps him who scoffs at all religion from swearing and declaring in words that either in his mouth have no meaning, or in his sense are the subject of mockery and contempt? Can even the new test prevent him from professing himself a '*Separatist*'? But the Constitution is essentially Christian, and all its outworks are in jeopardy the instant that Jews are let within the lines. Is it essentially Christian? Then how happens it that the highest municipal offices in the first corporation in England have again and again been held by Jews? How happens it that any office may be held by them without taking any test at all, and only running the imaginary risk of penalties, from which the regular operation of the same exclusively Christian Constitution relieves them annually, by an indemnity act, which no friend of the Constitution

ever utters one word against, and therefore no one, friend or foe, could say one word for, because it is passed year after year as a mere matter of course? A Constitution exclusively Christian! Why, it is as much the Constitution in Asia as in Europe, and yet an act was passed, unopposed, in 1833, by the enlightened Ministers of that day, expressly enabling all persons of all creeds and sects in India to hold any office whatever under Government. What then becomes of the Constitution exclusively Christian, of which the powers of Government over eighty millions of men may be wielded by Jew, Hindoo, Parsee, Mahometan, as well as by Christian? The matter is infinitely too absurd to detain us a moment longer.

These errors, chiefly from inadvertence, are of serious consequence. We have deemed it our duty shortly to observe upon them on this occasion, with a view to warn the Government and the Legislature how they lend their aid to propositions of such a kind. Of the good intentions of the individuals concerned no man doubts; but mischief is thus done which evil designs might have envied.

ART. X.—*Truths and Fictions of the Middle Ages. The Merchant and the Friar.* By SIR FRANCIS PALGRAVE, K.H., Keeper of the Records of the Treasury of Her Majesty's Exchequer. 8vo. London: 1837.

SIR FRANCIS PALGRAVE has here made a praiseworthy attempt to render popular and accessible to hasty and indolent readers a portion of that information, the materials of which, as they appear in his more formal works, may be supposed to possess little attraction for any but students. He has imagined a visit to England by Marco Polo, during which the Venetian falls into the company of Roger Bacon, and is introduced by him to various scenes exhibiting the political and social system of the country. This is not all. The Friar, besides giving his inquisitive pupil opportunities of instructing himself, communicates to him very largely his own views upon several political and moral questions. And Sir Francis Palgrave, not satisfied with speaking through the mouth of his imaginary interlocutor, also sets forth in his own character, and at a very considerable length, his opinions upon numerous subjects, literary, metaphysical, theological, and political. To these is added much which appears to be simply intended for pleasantry.



The fiction is, perhaps, not very judiciously or gracefully contrived. The reader is not seduced into acquiring the information by finding it incorporated in a narrative possessing an interest of its own, but follows the slender thread of story simply for the sake of the knowledge. Very little, too, is gained by the personifications, which are not sustained with any dramatic force: indeed this seems to be scarcely attempted. Nevertheless, the book is entertaining and instructive; although we think that it would not be less instructive if all the general reflections were omitted, and are convinced that it would be much more entertaining if all the jokes were eradicated. By such a process, the volume would be reduced to half its present bulk: but the author would find no difficulty in restoring it to its original size by the addition of valuable matter of the same kind with the remaining contents of the book. Of such matter probably no living author has so ample a store; and, in truth, we complain of the insertion of what we consider useless and flat, principally from the suspicion that it has excluded much that would have been profitable and interesting.

The author states, in his dedication, that the most ample illustrations of such portions as relate to our Parliamentary and legal constitution are supplied by the collections of original records and other ancient documents edited by himself. Some curious instances of this are specified by him. As to one part of the work, that relating to the antiquities of London, he refers to 'a ponderous blue book,' containing the report of himself and his brother commissioners upon the municipal institutions of the great city. Those who have looked on the outside of this folio, which contains 584 pages, at about 75 very long lines per page, may well feel grateful to any one who gives them the means of deriving instruction or amusement from it without their unclosing its dreary cover:—more especially when this is undertaken by the person fittest for the task; for we suppose we may safely assume that the antiquarian department of the report has been principally furnished by Sir Francis Palgrave; we 'think we do know the 'sweet Roman hand.'

The first chapter is entitled 'The Refectory.' The scene is laid at the Abbey of Abingdon, where Marco Polo arrives, is hospitably treated, and becomes acquainted with Friar Bacon. In the second chapter, 'The County Election,' Marco and the Friar set out for London, and, in their way, are present at a Shire Court. Sir Francis admits that he cannot assert that all which he describes as taking place on this occasion could have been possible at any one time of history. The whole is, however, full of curious matter. We will give, as a specimen, the

account of the way in which the Parliament House was then filled. The Sheriff reads to the suitors the Parliamentary writ. The Lord Abbot of Oseney, a Parliamentary prelate who is present at the court upon business, is summoned personally; but moves off, repelling various attempts to obtain his presence as one of that noble body whom Lord Ellenborough, in a happy mood of irony, designated as 'the tribunes of the poor.' The High Sheriff, Sir Giles de Argentine, then reads the writ commanding him to cause two knights to be elected for the shire.

'A momentary pause ensued. The main body of the suitors retreated from the High Sheriff, as though he had been a centre of repulsion: and, after a short but vehement conversation amongst themselves, one of the bettermost sort of yeomen,—a gentleman farmer, if we may use the modern term,—stepped forward and addressed Sir Giles: "Your worship well knows that we, poor Commons, are not bound to proceed to the election. You have no right to call upon us to interfere. So many of the Earls and Barons of the Shire, the great men, who ought to take the main trouble, burthen, and business of the choice of the Knights upon themselves, are absent now in the King's service, that we neither can nor dare proceed to nominate those who are to represent the County. Such slender folk as we have no concern with these weighty matters. How can we tell who are best qualified to serve?"

"What of that, John Trafford,"—said the Sheriff;—"do you think that his Grace will allow his affairs to be delayed by excuses such as these? You, Suitors of the Shire, are as much bound to concur in the choice of the County Members as any Baron of the realm. Do your duty; I command ye in the King's name."

"Prove your allegations, Sir Sheriff,"—replied the sturdy Yeoman, who, as the Reeve, headed the deputation of his township.—"Quote the judgment, read the statute, cite the law, or produce the roll, showing that our concurrence in the Parliamentary elections is a part of our suit and service in the Shire. And if you succeed in finding that you have any coercive right over us in this respect, you shall harness me in the team; and know further, Sir Sheriff,"—continued John Trafford, "that I appear in this Shire Court as the Attorney and Steward of Sir Robert de Vere."

"So be it, Master John,"—retorted the Sheriff, with all the delight of a disputant about to place his adversary between the horns of a dilemma.—"Since I have you, as your master's representative in the Shire Court, I will let you go as a Suitor with all my heart. You have just alleged that the burthen and duty of the elections falls upon the earls and barons. This is your acknowledgement, in full and open Court, which you cannot retract, and of which I and the Coroners will all bear record by word of mouth before the Exchequer. Now deny, if you can, that, in all proceedings of this County Court, you are fully empowered by immemorial custom, to answer for Sir Robert your master, in the same manner as if he were here present. Therefore, under peril of the King's high displeasure, and as you tender life and limb, proceed at once to the

election, as you are in duty bound, and as it has been ruled, again and again, in Yorkshire."

'Fluctuating and uncertain as the elective franchise was, anterior to the creation of the forty-shilling suffrage, the only practice almost, in which much uniformity can be discovered, or which is defined with clearness and precision in coeval documents, is the usage of the Stewards or Attorneys of the Baronage concurring in the Parliamentary nominations, and on some occasions electing, or rather making, the members without the assent of any other parties whatever,—a professional arrangement which, as some folks say, is by no means obsolete.'

John Trafford gives up the point; and nominates one Sir Richard de Pogeys, who, having mean-while received a hint from Trafford, has been furtively gliding from the assembly. The sheriff instantly despatches his bailiffs to secure the member.

\* "And," continued he with much vehemence, "Sir Richard must be forthwith committed to custody, unless he gives good bail—two substantial freeholders—that he will duly attend in his place amongst the Commons on the first day of the Session, according to the laws and usage of Parliament."

The senator takes to flight, in the sight of his constituents, chased by the bailiffs, Dick-o'-the-Gyves and John Catchpole, who at last come up with him, and attempt by main force to secure his talents in the service of the county.

'Distinctly seen from the Moot-Hill, the strife was begun and ended in a moment; and in what manner it had ended was ascertained without any further explanation, when the Officers rejoined the assembly, by Dick's limping gait and the closed eye of his companion. In the mean-while, Sir Richard had wholly disappeared; and the special return made by the sheriff to the writ, . . . will best elucidate the bearing of the transaction.

"Sir Richard de Pogeys, Knight, duly elected by the Shire, refused to find bail for his appearance in Parliament at the day and place within mentioned, and having grievously assaulted my Bailiffs, in contempt of the King, his crown and dignity, and absconded to the Chiltern Hundreds, into which Liberty, not being shire-land or guildable, I cannot enter, I am unable to make any other execution of the writ, as far as he is concerned."—P. 75—81.

Who could have discerned, in such a transaction, the germ of our representative privileges—of so much that has been noble and precious in our history, mixed up with so much that has been base and ludicrous? Of the struggles of Hampden, Vane, and Elliot, of the Bill of Rights, of the Duke of Newcastle's right to do what he would with his own, of the agony and triumph of the Reform Act, of Old Sarum, East Retford, and the Spottiswoode Subscription? Yet such was the acorn from which sprang the stately British oak!

' First a seedling, hid in grass ;  
 Then twig ; then sapling ; and, as century roll'd  
 Slow after century, a giant-bulk  
 Of girth enormous, with moss-cushion'd root  
 Upheav'd above the soil, and sides emboss'd  
 With prominent wens globose—till at the last  
 The rottenness, which time is charged to inflict  
 On other mighty ones, found also thee.'

The third chapter is called the ' Guildhall.' We are here introduced to various civic scenes ; and a short view is given of the progress of the early constitution of the Corporation of London. The state of the city, in the Anglo-Saxon age, must be left almost entirely to conjecture, and affords, we think, hardly specious grounds for that. Sir Francis believes that it ' was then in ' the nature of a republic, subjected rather to the supremacy than ' to the authority of the *Emperor* of Britain.' It is certain that the earliest existing charters recognise, but do not affect to create, the franchises of London.\* With forty thousand fighting men dwelling within her good stone walls, she contrived to maintain her freedom, and increased in prosperity from age to age, in spite of incessant talliages and loans (which sometimes appear as the direct contract price of grants from the crown†), and of occasional seizures of her liberties into the hands of the monarch. Much of the independence of London, says the author, was owing to the existence of the king's courts. We suspect, however, that the internal jurisdiction of the city itself had a larger share in producing the result. He adds (p. 90), ' Nor amongst the causes ' of the well-being of London, must we omit the kindly influence of civic hospitality,—and long may it continue, AND WE ' BE THERE TO EAT.—Constantly in the habit of assembling at ' the festive board, as well in the greater associations of the city,

\* The Conqueror's charter is addressed to the Bishop William, and to the Portgerefa, and to all the Burhware. ' They are to enjoy all the laws, i. e. the customs or privileges which they had in the days of the Confessor ; and he wills that every child shall be his father's heir after his father's days, and he will not allow that any man shall do them wrong.'—*Report (Appendix)*, p. 5.

† For example, in the charter of 18th Edward IV., which recites that the king owed the mayor and commonalty L.12,923, 9s. 8d., and that they had agreed to release, of this sum, L.7000, to the intent that they might obtain a grant of the offices and occupations after-mentioned.—*Report (Appendix)*, p. 19.

‘as in the smaller bodies of the guilds, our citizens, however much they might be at discord or variance, were always in the way of being brought together by good fellowship. When the rival parties at Florence would have been employed in razing each other’s towers to the ground, our London factions united in demolishing the ramparts of a venison pasty.’

‘Turn thou the mouth of thy artillery,  
As we will ours, against these saucy walls.  
—Let it be so—say where will you assault?  
—We from the west will send destruction  
Into this city’s bosom.—I from the north.  
—Our thunder from the south.—  
—O prudent discipline! from north to south,  
Austria and France shoot in each other’s mouth.’

*King John.*

“Φέρε δαῦρο, πᾶσι, θάρακα πολεμιστήριον.—  
ἔξαιρε, καί, θάρακα κάμοι τὸν χόρα.—  
ἐν τῷδε πρὸς τοὺς πολέμιους θαρήσομαι.—  
ἐν τῷδε πρὸς τοὺς συμπίτας θαρήσομαι.”

ACHARN.

— On this affecting subject, we rejoice, as we live by bread, to find that the five authors of the ‘ponderous blue book,’ while they recollected that they were commissioners, did not forget that they were men. They inform the Crown (at p. 19 of their Report) that the companies of the city

‘Also possessed the character of modern clubs. They were institutions in which individuals of the same class and their families assembled in social intercourse. So important was this object deemed, that several of the Companies now actually hold their Banquets under their Royal Charters. The annual feasts of the Skinners, Haberdashers, Clothworkers, &c., for instance, are LEGAL AND CORPORATE FRANCHISES.’

‘As I suck blood, I will some mercy show.’

The author suggests a theory upon the early form of the municipal community, which we will give in his own words:—

‘If I were in a mood to theorize upon the scanty vestiges of the ancient state of society in London, I should be inclined to maintain, that the inhabitants, the Burwaha, or Burgesses, as they are termed in the Charter of William the Norman, were severed into two distinct classes,—the Aldermen, Magnates, or Barons, the representatives of some very ancient and victorious race, in whom the powers of government principally rested,—and the Citizens at large, the descendants of a vanquished race, a mixed multitude, and who were perhaps themselves subdivided into various plebeian castes.’—P. 91.

This is a somewhat bold adoption of Vico’s theory of the

origin of an aristocracy, of which Niebuhr has so well availed himself, and which Dr Arnold has rendered accessible, and illustrated so ably, in the first Appendix to his edition of Thucydides.\* The warrior caste of nobles in the lofty citadels, and the community of the borough clustering around the foot of the rock or the fortified wall, are features of which, in this country, we may yet trace the vestiges in the little Welsh boroughs, as Knucklas and Llantrissant, more distinctly perhaps than in larger towns. In the work before us, we have the funeral of an alderman,—the victim, we may imagine, of his own ardour in the deadly breach, upon the occasion of one or more of these saccades to which Sir Francis attributes so much of the freedom of London,—described as arrayed with crested helmet, spur, gold-hilted sword, and emblazoned shield, the ensigns of nobility: and we are introduced to Aldermanbury as a gray castellated edifice, ‘the Aldermarna-Burgh, the fortress of the Senators, the spot which, from time whereof the memory of man runneth not to the contrary, hath been the seat of the government of our community.’ Some of our readers may perhaps remember other names near this core of the city, as Addle (Atheling) Street, denoting nobility: and the warlike features of the ancient civic aristocracy will not surprise any reader of the romance of Merlin, who recollects how,† on an emergency, the constable or mayor, Sir Do, blows his horn in Aldgate, collects the several aldermen of the city with their respective wards, and rushes out to the aid of Sir Gawain, then engaged in an unequal conflict with the Pagans. Those who choose to follow out Niebuhr’s view more resolutely may place a Janus at Bishop’s Gate, looking, with his several aspects, to the Ward Within, and the Ward Without; and may see, in the contests as to the joint and separate wardmotes, a repetition of the phases of society in which the Icillii and Licinii acted. We decline, for our own parts, to attempt to pursue, into yet earlier stages of polity, the analogies which a bold theorist might find to the representations given by Vico of a state preceding that of the warlike aristocracy,—that in which the traditions of giants originated. We dare not tell, in English, how these sons of the earth, the predecessors of the warlike caste who formed the burghal aristocracy, acquired their vast bulk, not, as their successors, by the exploits in which Sir Francis so enthusiastically participates, but by a less social

\* See especially p. 623.

† Part II., Canto 4. Ellis, *Spec. Met. Rom.* I. 278.

and (to modern notions) less pleasing process. ‘Onde andarono in uno stato affatto bestiale, e ferino; nel quale le madri, come bestie dovettero lattare solamente i bambini, et lasciarli nudi rotolare dentro le fecce loro proprie, ed appena spoppati abbandonarli per sempre; e questi dovendosi rotolare dentro le loro fecce, le quali co’ sali nitri maravigliosamente ingrassano i campi, e sforzarsi, per penetrare la gran selva, che per lo fresco diluvio doveva esser foltissima; per li quali sforzi dovevano dilatar altri muscoli per tenderne altri, onde i sali nitri in maggior copia s’insinuavano ne’ loro corpi; e senza alcuno timore di Dei, di padri, di maestri, il qual assidera il più rigoglioso dell’età fanciullesca, dovettero a dismisura ingrandire le carni, e l’ossa, e crescere vigorosamente robusti, e sì provenire giganti.’\* The results may be seen yet figured out in the Gog and Magog, the vast guardians of the Guildhall, where they stand, as Pallas Poliuchus stood in the Athenian Acropolis with the serpent near her lance; that serpent which Pausanias took for the earth-sprung Erichthonius,† and which was the type of autochthonal nobility, and was supposed to be itself instinct with life, and a guardian genius of the citadel.‡ We do not positively say that the dragons which support the city shield have a similar mythological origin.

The aldermanry descended from father to son, and might be bought and sold, like ‘a baronial jurisdiction, a lordship, an honour, or a manor, to which analogous rights of jurisdiction were appurtenant.’ The advance of the citizens from the mere right of attending in folkmoot to consult on important occasions with their lords, the aldermen, on to their successful demand of a share in the election of the mayor, about the commencement of the reign of Edward I., and to the right of a voice in Common Council in the government of the city, is described by Sir Francis Palgrave; and the account, with the exception of some superfluous waggery, is highly interesting. He goes on to exhibit several scenes displaying the peculiar nature of the civic privileges; we regret that we have not room to give any account of these; but we recommend this part of the work most strongly to the attention of all who wish to obtain information on this most important, but little understood, part of English history.

The fourth chapter is entitled ‘Parliament.’ The Merchant

\* *Scienza Nuova*, vol. II., p. 8. (1801).

† *Att.* 24. 7.

‡ *Herod.* VIII. 41. *Aristoph.* *Lysist.* 759.

and Friar go to Westminster, and witness the equitable remedy, by the Crown in council, of grievances left uncured by the letter of the law. They also enter the Parliament-chamber, but behold there little more than an adjournment, preceded however by a curious negotiation respecting the relative precedence of the sees of Canterbury and York. Sir Francis details the discussion somewhat minutely : but, as it involves, in his narrative, matters which we think scarcely consistent with the dignity of the ecclesiastical functionaries (including the annexation of a fox's brush to the tail of the apparitor of the Archbishop of York, and the wounding of the shaven head of the Prior of St Bartholomew's by the crosier of the Abbot of Fountains), we prefer giving a narrative of a similar, but less indecorous, treatment of the same grave question from the learned author of *The Eirenarcha*.

' After this, another hurley-burley happened in a Synode assembled at Westminster, in the time of King Henry the Second, before Cardinall Hugo, (Pope Alexander's Legate) betwéene Richard and Roger, then Archbishops of these two Sées, upon occasion, that Roger of Yorke comming of purpose (as it should séeme) first to the assembly, had taken up the place on the right hande of the Cardinall, which when Richard of Canterbury had espied, he refused to sit downe in the second roome, complayning greatly of this prejudice done to his Sée : whereupon, after sundry replies of spéech, the weaker in disputation (after the late maner of shrewde Schoole-boies in London stréetes), descended from hote wordes, to hastie blowes, in which encounter, the Archbyshop of Canterbury (through the multitude of his meiney) obtained the better : So that he not onely plucked the other out of his place, and (trampling upon his bodie with his féete) all to rent and tare his Casule, Chimer, and Rochet, but also disturbed the holy Synode therewithall in such wise, that the Cardinall for feare betooke him to his féete, the company departed their businesse undone, and the Bishops themselves mooved suite at Rome for the finishing of their controversie. By these, and such other successes, on the one side the Byshops of Canterbury following, tooke such courage, that from thencefoorth they woulde not permit the Byshops of Yorke to beare up the crosse, either in their presence, or province : And on the other side, the Byshops of Yorke conceived such grieve of heart, disdaine, and offence, that from time to time they spared no occasion to attempt both the one and the other.'—LAMBARDE'S *Perambulation of Kent* ; p. 82. (1596.)

The same author tells how Edward III. finally settled the matter, by giving the precedence, mitigated as to some formal



circumstances, to the cross of Canterbury, allowing it to take the right hand of that of York.

‘Finally, that in broade stréetes, and high waies, their crosse-bearers should go together, but yet in narrowe lanes, and in the entries of doores and gates, the crossier of Canterbury should go before, and the other come behind, for feare of Justling. So that (as you see) the Byshops of Canterbury evermore prevail-ing by favour and obstinacy, they of Yorke were driven in the end, to give over in the plaine field, for verie despaire, wanhope, and wéerinesse.’

At the end of this narrative, Lambarde, who evidently writes under feelings of prejudice, ill-naturedly asks, *Peccat uter Cruce dignius?*

The fifth chapter is entitled ‘The Friar’s Study,’ and the sixth and last is entitled ‘Knowledge.’ These are, in our judgment, much the least interesting portions of the work. The author’s object, in writing them, seems to have been to convey his own views on the effects which science exerts upon the moral and religious state of society. They consist principally of dissertations upon this subject, delivered either in the character of the Friar, or in that of the author himself.

We have endeavoured to give our readers a general notion of the kind of information which they may derive, at the expense of little time or labour, from this work. We are by no means sorry that we have so little room left for pointing out what we consider its faults.

Our first complaint is, that an inordinate proportion of the book is absorbed by matter intended for drollery, which has only the effect of exhausting the attention. We have already adverted to this; and we had thought of extracting some passages to justify the complaint: but, upon consideration, we deem it better to content ourselves with simply recording our protest; and we avert our eyes from the austere frolics of our learned instructor with feelings like those which actuated the squire of the Knight of the Doleful Countenance, when his master thought it expedient to ‘come aloft’ in the Sierra Morena. ‘Y desnudándose con toda priesa los calzones, quedó en carnes, y en pañales; y luego sin mas ni mas dio dos zapatetas en el ayre, y dos tumbas la cabeza abaxo, y los pies en alto, descubriendo cosas, que por no verlas otra vez, volvió Sancho la rienda á Rocinante, y se dio por contento,’ &c.

Another fault is of a sort the least likely, of all others, to have occurred in a work of a thoroughly learned man like the author: it is that of speaking by guess, upon matters which lie within the

department of positive knowledge. Thus, in the preface, Mr Whewell's 'History of the Inductive Sciences' is spoken of as 'a work combining the imagination of the poet *with the precision of the mathematician*.' This happens to be a lucky guess, in the particular instance: but what value will Mr Whewell attach to the panegyric, when he finds, at page 100, the following metaphor? 'It would be well for the peace of the world, were it possible for political partisans, of all sides and parties, to understand how entirely they miscalculate the elements of the courses in which their tutelary planets move. As the luminary recedes, and diminishes, and fades away from the sight, they comfort themselves with the idea, that the Star is revolving in a parabola. However protracted the period may be, they ween it will, at length, reappear with accelerated rapidity and increased splendour. But, alas! it has flown off in an hyperbolic curve, never returning into the orbit from which it has once departed!'

'O loss of one in Heaven to judge of wise!'

Mistakes of this sort are the more annoying from the general tone, which pervades the work, of contempt for every intellectual pretension made by such portions of the human race as do not consist of the porcelain clay of the world, and disgust at all humble attempts to improve their intellectual condition. Surely a sneer at Mechanics' Institutes comes ill from one who has condescended to pay to the science of Mathematics the tribute of a conjecture as to the meaning of its language, and the nature of its results. No writer can be less justly suspected of ill-nature or shallowness; yet he has left many passages which, if the work were anonymous, might justify both suspicions.

Another fault, and that also a strange one to be committed by a scrupulous and laborious scholar, is the exaggerated and peremptory language in which opinions are expressed. Thus he assures us (p. 197), that 'Liberty in "the States" consists in the full prerogative of "extinguishing" the Red man by the progress of intelligence;—cuffing and kicking the Coloured man out of the White man's aisle,—and slicking and cropping the white man under suspicion of being suspected as an agent of the anti-slavery Society.' It would be about as reasonable, if any one were to assert that Sir Francis Palgrave's learning consists in supposing that bodies which move in parabolas return to the places which they have quitted.

We should be much disposed, if space permitted, to quarrel with some other opinions, urged by the author in a tone of conscientious earnestness which cannot be misunderstood. The

greater part of the last chapter is devoted to an attack upon all natural theology, which does not assume as its foundation a belief in the revealed word of God. He treats it, not simply as imperfect if it stop short of this, but as absolutely mischievous in itself. And the ground upon which he seeks to invert the order of teaching which was sanctioned by St Paul, to say nothing of men like Butler, is, that it leads to an unjust view of the Divine attributes, because it shows the existence of evil, which it cannot reconcile with perfect wisdom and goodness; whereas revelation teaches 'that the earth was cursed for man's sake.' But how this removes the difficulty, how the possibility of sin, and of the misery produced by sin, is compatible with the assumed attributes, he does not explain. In fact, he has perplexed himself by taking for granted that the history of some of the results of evil is an explanation of its origin; not perceiving that the Christian system starts with assuming, as a fact, the liability of created and responsible beings to evil. The absence of all doctrines purely speculative from the Christian revelation, is indeed one most remarkable feature by which it is distinguished from false religions, as has been admirably shown by Archbishop Whately.\*

Opinions, which, though less pernicious than this, yet appear to us eminently false, are diffused throughout the book; but we abstain from pursuing our criticisms further, not merely from want of space, but also from a conviction that they are the parts of the volume least likely to attract attention. We will cheerfully, if opportunity should be afforded us, resume this relation; and, if we cannot persuade Sir Francis to omit his general reflections, we would gladly accept another volume with as much information in it, though it contained twice as many witticisms, and twice as much general speculation.

'Hast thou gold yet? I'll take the gold thou giv'st me,  
Not all thy counsel.  
More counsel with more money, bounteous 'Timon.'

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\* See Fourth Essay on some of the Peculiarities of the Christian Religion.

ART. XI.—1. *Report of the Select Committee appointed to enquire into the working of the Negro Apprenticeship.* London : 1837.

2. *Papers relative to the Abolition of Slavery.* Parts I., II., III. London : 1837.

THE quantity of talking and writing which goes on under the sun, has grown of late years into a practical inconvenience, towards the diminution of which every man ought, we think, to do something. Accordingly, having nothing conclusive to make known, we have been silent for some years on the condition of the negroes in the West Indies. Soon after we last addressed our readers on this subject, the object which we had so long laboured without ceasing to bring about, was taken up, in the true spirit, by those to whom it especially belonged, and put in a way to be speedily and satisfactorily accomplished. The old language of argument and admonition, which had been vainly persevered in till it had become little better than a mockery and pretext for delay, was at length abandoned ; and a new language was adopted which the Colonial Assemblies could hear. On the 28th of August, 1833, their consent to the ABOLITION OF SLAVERY was secured by an Act of Parliament, declaring that, whether they consented or not, within twelve months SLAVERY SHOULD POSITIVELY BE ABOLISHED ; and they were invited to anticipate the operation of that law by making one in the meantime for themselves. For the loss of property thence accruing, ample compensation in sterling money was provided ; and by withholding the payment of that compensation until effectual measures should be passed for the protection of the newly emancipated population, a further security was taken for their co-operation in that work also. The enactment of proper laws being thus secured, it remained only to secure the proper administration of them. This was effected by intrusting it to a body of magistrates sent out from England, paid by Government, independent of all local authorities, unconnected with all local interests, and, above all, ‘ unacquainted with the negro character ;’—capable, that is, of believing that black men are born not merely to raise sugar for white men, but to die and rise again for themselves.

Since the change was thus fairly set on foot, and the conduct of it was placed in willing and trustworthy hands, we have been content to watch its progress in silence ; and though we have seen many things to deplore, and some things to disapprove, we

are bound to confess that our predominant feeling has been one of triumphant satisfaction. Many things we have seen to remind us how grievously the nature of a man may be defaced and degraded by the tyranny of his brother; but more to assure us how much will remain undestroyed, after all that tyranny can do;—how safely we may trust that good will be called forth by good, and that the place on which mercy drops will never long be barren; to teach us, not indeed for the first time, but by the largest and most striking example which has yet been given to the world, that neither complexion, nor climate, nor oppression itself, can make the condition of a man desperate, or exclude him from the great brotherhood of humanity. In watching the progress of this,—the newest and the noblest experiment in this kind,—we have seen the most sanguine hopes which, in the confidence of our common humanity, we ventured to entertain, fulfilled one by one even beyond our expectations, and taking their place among established truths; while the predictions of those who, in the confidence of an exclusive acquaintance with the negro as distinguished from the human character, so scornfully rejected them, we have seen one by one pass onwards to the proof, burst, and be forgotten. Already have the original disasters, announced for twenty years as unavoidable, if ever slavery should be abolished, yet as more to be avoided than sin itself, been left in the secure distance. The cheerful augurs have forgotten their own presage. Other new forebodings have bubbled up in their place to meet the shifting occasion, and to vanish along with it, each swallowed by its practical refutation faster than we can pursue them; and so chasing each other to the place whither all false things go. The experiment has not yet reached its close. The prophetic soul of the planting interest has yet many things to dream of which are not to come. Many a fatal fear has to be engendered, announced, and forgotten, within the next few years. Such fears requiring no ground to stand on, and taking up no room in the mind, are not to be counted for their number; nor will they be all set at rest until the new system shall have had time to adjust itself, and the account of hopes and fears shall be finally closed. We have no wish to anticipate that natural consummation. Why should they die before their time? That the matter will finally issue in a state of enduring good, which will leave room for only one opinion with regard to the abolition of slavery,—namely, that it was in every view expedient and ought not to have been delayed a day longer;—for only one regret, namely, that it was not done sooner and done more boldly; that in the framing of the new law, the negroes were not trusted more and their masters

less;—all this we seem to foresee so clearly, that we would willingly wait in silence for the due arrival of that day, rather than vex the subject with premature and needless disputation. Till that day arrives, the closing chapter in the history of the ABOLITION OF SLAVERY—perhaps the most instructive of all human histories—will be wanting, and it will be too soon to take a final review of it.

But though we have no wish to pursue a fruitless triumph in honour of ourselves, or to interfere with the progress of the measure, which is going on, if not in all respects as well as we could wish, at least as well as we could hope to make it; and though to those who have watched it like ourselves we have in fact nothing of importance to say; yet, for the benefit of others, who, being unacquainted with the real state of the case are likely, from representations recently put forth, to take a very false impression of it, we have thought that we might now perform a useful service, by exhibiting the actual results of the measure, so far as it has yet proceeded;—giving, as far as may be, distinct references to the facts on which we rest our conclusions, and the sources from which we draw our information.

*Purely* good those results cannot well be. A single Act of Parliament may release all slaves from their servitude, and deprive all slave-owners of their authority; but to change a slavish multitude into an orderly and happy peasantry, a slave-driving oligarchy, deformed and made fierce by their false attitude, into a natural upper class, must be the slow work of time. In order to judge how well the experiment has succeeded, we must endeavour to remember the position in which we stood before, and the difficulties and perils which seemed to beset us whichever way we turned. The evils of slavery were, indeed, pretty generally admitted, and were becoming more and more obvious every day. Slave property, from being an object of greedy, gambling speculation, in pursuit of which so many fortunes had been lost and won, had become valueless in the market;—ruined, as some said, by the interference of the mother country—dying, as we say, of its own inherent sinfulness, the wages of which is death. Gangs of slaves could be bought for almost any thing. Estates could not be sold at all. The slave proprietors themselves had begun to feel that they would gladly escape from their position, if they knew how to do it, without putting themselves in a worse. But how to get rid of slavery, without drawing down some very serious calamity on one side or the other—either by the sudden ruin, not of the proprietors alone, but of all those whose incomes were derived directly or indirectly from the many millions annually paid for the exported produce of the

West Indies ; or from the inroads on social peace and security which could not but be apprehended from a mass of slaves suddenly let loose—was at that time a problem by which the wisest as well as the most sanguine abolitionists were perplexed. The sudden cessation of sugar cultivation in our slave colonies would be a lighter calamity than the perpetuation of slavery. Still it would be a serious and substantial disaster, which it was most desirable to avoid. The relapse of the slave population, sudden or gradual, into a primitive condition of society, without effective civil government or organization ; without any principle of order within, of any power to impose order from without ; without any securities for the weak and simple against the tyranny of the strong and cunning ; and, above all, inaccessible to the influence of teachers and preachers—their relapse into such a state would be a lighter evil than a continuance in their former condition, by just so much as such a state of society would be better than slavery. Still it would be an evil of great magnitude ; and if they could be made to pass from bondage to freedom without overthrowing the existing apparatus of social order in the passage, a considerable sacrifice might well be made by all parties, themselves not excluded, for the sake of so bringing the matter about.

To devise a measure, then, which should secure the immediate extinction of slavery, and some immediate relief to the slaves, without involving any of the evils above mentioned, was the problem to be solved ; and the measure, into the success of which we are about to enquire, is to be regarded as an experiment towards the solution of it—a measure which, at the time of its introduction, was attended with more anxiety, and involved in more uncertainty as to its immediate issue, than it is easy to remember now that the issue is known.

To discuss the *a priori* probabilities of success would be beside our purpose. Enough that it has succeeded. But, in order to judge how far that success ought to be considered as a matter of congratulation, it is essential that we should call to mind what we thought ourselves entitled *beforehand* to expect—how we stood, and what we looked for five years ago. Five years ago controversy was cut short. It was finally resolved that, come what might, slavery should be abolished without delay ; and we were left to anticipate the issue in silence.

Now, endeavouring to recall our own feelings at that crisis,—our confusion of hopes and fears,—we well remember, predominant above all other feelings, an unshaken conviction that nothing permanently bad could come of it ; and, at all events, that, come of it good or bad, it was *right* that it should be done ; but,

as to the *immediate* issue, we remember some strange misgivings. That so inveterate a sin could be purged away, and no penalty exacted ;—that nature had no revenge to take for the long violation which she had suffered ; that the transition from an unnatural to a natural state would be itself natural and easy, and society restored to health without passing through some painful discipline ;—it was almost impossible to hope. Eight hundred thousand human beings, from whom all instruction had been withheld, in whom all exercise in the duties between man and man had been discouraged, all sense of responsibility repressed—who had never been asked for love or pity—who *owed* no love or pity—who had rather been taught that love, pity, forbearance, fellowship in human rights and duties, were not *for them*—who had been taught to fear nothing but the lash, to hope for nothing but exemption from animal pain—to whom industry had been made odious, obedience a blind necessity, mercy itself a thankless and degrading boon—eight hundred thousand human beings, in whom all the gentler and more ennobling sentiments of humanity, ‘ self-reverence, self-knowledge, and self-power,’ had been thus checked in their growth, while the lower passions and instincts must have been, under that very discipline, growing stronger—eight hundred thousand human beings, so trained and taught, were to be told to come forth and be free ; to go where they would, seek their food where they could find it, to be henceforth their own masters ; still however holding themselves subject to the necessary regulations of society—subject, that is, to a life of labour and privation, and all the hard conditions attaching to ignorance and poverty, in lands where rich men rule. To these conditions (hard surely, though, it may be, inevitable) they were to be told to submit cheerfully. From what motive, or on what consideration ? Not as being a powerless minority, who might understand the necessity if not the justice of the case ; they formed every where a large majority—a majority conscious of their strength and numbers, and wearing an indelible badge, which, while it divided them from the overruling minority, united them to each other by the assurance of sympathy and a common cause. Not because their minds had been subdued into apathy : on the contrary, their discontents had but just before broken out in open insurrection, and their hearts were still inflamed and agitated by the fierce passions which had been generated in the struggle. Not because they would have nothing more to wish for : they would wish to find in freedom that golden state which they had dreamed of. For their submission to the necessary regulations of society we could trust to none of these things, but only to their respect for the laws of the world—a world



which had never been their friend—for obligations, the sense of which had never been called forth in them—for the mutual charities of a society from which they had been scornfully excluded—for personal interests which they had never been qualified to understand—for common duties which they had never been allowed the opportunity to practise, involved in common rights which had never before been recognised.

Such, and no less, would have been the experiment of an emancipation, immediate and unqualified, of the slaves in the West Indies. Could it have been safely made? Seen from the position in which we stood then, we should say it was scarcely reasonable to hope so. Seen from the position in which we stand now, we should still say it was impossible to be confident of it. Knowing now all that we did not know then, we are still disposed to think that, had the slaves in all our colonies, as in the very favourable case of Antigua, been emancipated at once and absolutely, though it is very possible that no great disaster would have followed, it is scarcely to be affirmed that no great *risk* would have been run. Where there is ignorance, excitability, natural causes of discontent, and overpowering numbers on one side; on the other, violence, intemperance, and a disposition to provoke; there, there are the elements of an explosion. And though the explosion may not come for years, or for ages, still there is every day a danger of its coming, and at the end of each day it is impossible to say how many times a mere breath may have averted it. That state of things is not safe, on the stability of which, or at least on its speedy restoration in case of disturbance, it is impossible to *calculate*. That community could not have been safe, the peace of which depended in any considerable degree upon a population of slaves newly emancipated not proving inflammable—a magistracy of managers and overseers newly diswhipped not scattering fire—a colonial police newly organized being able promptly to extinguish the flame—or a colonial militia not making more mischief than it found.

Smoothly, therefore, as this critical time has passed; few and trifling as are the disturbances which have occurred, and the dangers which we have seen; and secure as the rest of the way now appears to be; we are far from believing that unqualified emancipation, especially if forced on the colonial legislatures against their will, would have been either politic or justifiable. At all events, without pretending to say that the probationary state of Apprenticeship could not have been safely spared, we can at least say this—that under this probationary state much has been done: uncertainty and alarm have vanished; many dangers, which seemed to lie in the path, have been passed over safely

and without risk ; some advances have been made in civilisation ; some hearty co-operation has been secured towards a further advance ; nothing as yet has gone backward. And very sure we are, that if among the numerous plans for the abolition of slavery, sudden or gradual, which were rife in 1832, any one could have been *ensured* to work as well as this has done,—as well and no better—it would have been eagerly accepted by all parties.

Before we proceed to examine how far the objects of the measure have been attained, we must state briefly what we conceive them to have been. The main ends proposed were, as it appears to us,—

*1st*, The immediate and absolute extinction of the *essential principle* of slavery,—that principle which recognised the slave only as a *chattel*, subject not to the law but to the mere will of his master, and capable of legal protection only as horses and cats are protected by Mr Martin's Act. From the hour when the Abolition Act came into operation, the slave became in all respects a *person* ; having his rights and duties defined by law ; entitled for any infringement of the former to a definite legal remedy, and liable for any infringement of the latter to a definite legal penalty. The show of conferring and protecting such rights which had been previously made by inoperative meliorating laws, was to be now realized by the operation of laws revised by the Crown, and administered by the Crown's paid servants.

*2dly*, The immediate extinction not only of the principle of slavery, but of every remnant of the servile relation, in respect of all persons not yet involved in it ;—every child born within the six years previous to the passing of the Act being placed at once on the same footing with other British subjects.

*3dly*, Some immediate relief in the physical condition of those who were not to be immediately released from all their existing obligations ;—one-fourth of the time which had previously been at their masters' disposal being at once placed at their own.

*4thly*, The immediate removal of the more important impediments to the civilisation of the existing servile population ; by admitting their evidence in courts of justice, by encouraging them to make contracts and receive wages ; by recognising the validity of their marriages ; by introducing new facilities for education ; by removing all restraints upon the free communication of religious knowledge ; by qualifying them to demand their entire freedom on tendering the fair value of their remaining services ; by exempting females from the lash ; and by some other provisions of the same nature.

*5thly*, The maintenance, in the mean-time, of the existing

order and framework of society; the protection of the proprietors against the sudden paralyzation of the immense capital invested in West Indian property,—of commerce against the sudden stoppage of a most fruitful source of productive industry, the failure of which would leave a hundred channels dry,—of the community generally (the labouring population not excluded) against that dissolution of all social polity which the subversion of the existing order would carry with it. This was to be effected by upholding the former barriers of society, confining labour within its former channels, and enforcing the performance of certain mutual obligations between the master and the slave, similar to those formerly subsisting, though curtailed in extent and under a new sanction,—for such limited period as might allow each party to feel their way through the change, gradually to adjust themselves to their new position, and to prepare their minds and fortunes for whatever might befall.

Such we take to have been the main ends of the new law, the attainment of which was essential to its successful operation.

The next point was to contrive that they should be carried into effect according to the design, by the enactment in the several colonies of laws adequate for that purpose. This was a point which could of course be only partially attained. There was never yet a law so well devised and so faithfully administered, as altogether to defy encroachment, evasion, violation, or defeat; scarcely one (always excepting laws made for the protection of the law-makers or lawyers) under which the injured party could be secure of a remedy adequate to the injury sustained. Murderers, robbers, seducers, slanderers, may be made to suffer, but not to restore what they have taken; the debtor may be made to pay his debt, but cannot repay the cost, the time, or the anxiety of the prosecution: in cases of disputed property the ruinous effects of 'going to law' have passed into a proverb. And if this be the case in England, with her impartial judges, her learned lawyers, her competent juries, her magistrates, if not always learned and impartial, yet with every chance of being so, which general education and a jealous public opinion can secure; how much more so in the West Indies, where for so many years all the education, and with it all the making, administering, and interpreting of the law, and all the public opinion which can make itself heard, has been confined to a small minority,—interested, as all ruling minorities must be, *against* justice,—and as if by a common conspiracy of legislature, judges, grand jurymen, petit jurymen, magistrates, and journalists, deliberately set to defeat its ends. Moreover, in the legislative colonies, this difficulty was formidably increased by a

condition conceded to the legislatures as the price of their cordial co-operation; namely, that they should be permitted to make these laws themselves. The Government might disallow all acts containing improper provisions, and withhold the compensation until proper ones should be substituted; but was not at liberty to dictate the terms. How hard it must have been in the hurry of that time to overcome this disadvantage altogether, may be readily conceived. In such a society, indeed, and under such conditions, to contrive that laws should be passed within twelve months, not only faithfully declaring the new rights of the emancipated population, but so framed as to preclude the possibility of any violation of them, was a thing not to be expected. Though the colonial legislatures might have every wish to pass a perfect law, they had scarcely the skill. Though the Government might be perfectly acute and vigilant, it could hardly clear away all loose phraseology and all objectionable provisions, without tendering more assistance than the Assemblies would accept. Even though a perfect law were passed, it would be impossible to secure for it a perfect administration; or to ensure it against misinterpretation by the colonial courts. Difficulties and obstructions would rise at every step. First there were the Assemblies, above dictation, but not above blunders, and with their hearts not in their work.—They were to frame the law. Then there were the attorneys, managers, overseers, and book-keepers, interested in every way,—by old prejudices, by fresh mortifications, by the thirst of gain—in trenching upon the new rights of the negro, and defeating the law framed for his protection:—they were to be kept from encroaching. Next there were the negroes themselves, with all the taint of their former condition upon them,—suspicious, cunning, deceitful, ignorant, callous to shame, and too much used to the lash to be reclaimable by light correction:—They were to be made to work their forty-five hours weekly. Then again there were the special magistrates, a miscellaneous body with heavy duties and light pay; called suddenly to a most critical and laborious office, with no precedents to guide them; unpractised in the kind of duty, and exposed to a variety of vexations and obstructions in the performance of it:—They were to administer the law. Lastly, there were the colonial courts, filled by persons deeply interested in West Indian property, swelling with West Indian prejudices, exasperated against the special magistrates as being trusted with an authority from which their own class was jealously excluded:—In cases of appeal or prosecution they were to interpret the law.

Here were traces of slavery which it was beyond the power of

Parliament to abolish. The natural effects of these it was impossible altogether to escape or overcome. That in many individual instances the negroes would not be perfectly protected against hardship, oppression, or cruelty, and that their duties could not be always enforced without a degree of severity shocking to those who measure severity by an English standard, might as surely have been predicted before-hand as it is loudly proclaimed now; and might be better used as an argument for immediately setting about the abolition of slavery wherever it exists, than as a proof that the measure adopted with that view in this instance has not worked well.

We have dwelt on this part of the subject longer than we should have done—longer perhaps than our limits justify—because we perceive that some persons have conceived great disappointment and indignation at finding that the negroes are still liable to frauds and injuries;—are still exposed to some hardships, and may still, in case of misbehaviour, be flogged or sent to the tread-mill. And this unreasonable disappointment we believe to have arisen simply from their not adverting to the inevitable conditions of the case. It is not that they have neglected to make honest enquiries; nor that in pursuing them they have indulged in a partial credulity; still less that they have endeavoured to miscolour the facts; but simply that it has never occurred to them to view the subject in this its proper and natural light.

Assuming, then, that we are not to look for results *purely* satisfactory, but only for successive states of improvement, and a new condition of society good only as compared with that which went before, we shall now proceed to trace briefly the stages of this great progress. Brief our statement must be; and more of it than we could wish must rest, we fear, upon our own credit; for to produce all the evidence from which we have drawn our conclusions, and guard it with the necessary qualifications, explanations, and discussions, would require such another volume as those in which it is contained.

In this enquiry we shall confine ourselves chiefly to Jamaica; partly because it is the most important of all our West Indian colonies in extent and population; partly because it is probably the *least* favourable instance—as the one in which public opinion is in the most diseased state, in which faction is most rife and virulent, in which the whites and blacks were on the worst terms to begin with—the slaves most inflamed with discontent, and the masters (as shown in 1831) most prone to reckless acts of oppression—in which the superintendence of the governor, by reason of the multitude of duties and the extent of surface, was likely to be least effectual; and in which (we must add) the law itself, which

was permitted to take effect, was the least adequate for its purposes ; but chiefly because we have fuller and completer information about this than about any of the other colonies. It is, in fact, the only one concerning the state of which all parties have had an opportunity of giving evidence, and the evidence of each has been submitted to a rigid cross-examination. In relation to Jamaica, we have, in the first place, Lord Sligo's *Despatches*,—showing proof of unwearied vigilance which avoids no labour and blinks no difficulty,—written in a tone of frank and careless candour, the sincerity of which it is impossible for a moment to doubt,—clearly and faithfully reflecting all his impressions with regard to the internal state of the island from the very beginning, each as it arose in his mind, and (which is of great importance) reflecting his confused and half-formed impressions not less faithfully than his deliberate and grounded conclusions. In the second place, we have a multitude of *Reports* from the special magistrates, weekly, monthly, and quarterly, fresh as they were written, and evidently representing what they thought, saw, and did ;—their value of course varying with the various powers of thinking, seeing, and acting, with which the writers were gifted. Lastly, we have the *Evidence* published by the Apprenticeship Committee of the House of Commons, before which a variety of witnesses were examined, comprising representatives of each interest concerned, from Mr Beaumont, the hot and hotly persecuted Jamaica abolitionist, to Mr Burge, the professional advocate of the slave-owners. And thus we have altogether a body of various and conflicting evidence, from which the true state of the case, in its main features, may be faithfully enough inferred by any one who really desires to find it.

With respect to the progress of the measure in the remaining colonies, our information is much less ample. But, judging by the broad results, we should infer that the general success has been of the same kind, and the general movement in the same direction ; though more or less smooth and rapid according to accidental circumstances ; and, upon the whole, that the conclusions suggested by the case of Jamaica may be transferred to the others without any material error.

The first announcement of the Abolition Act in Jamaica seems to have produced nothing of great note. The dismay spread by Lord Stanley's original Resolutions of the 14th of May, in which the only compensation proposed was a loan of fifteen millions, had been allayed by the grant of twenty millions, which was announced about a month after. And when, on the 8th of October, Lord Mulgrave, in fair, firm words, commended the measure to the attention of the assembled legislature, as a

thing that was to be ;—reminding them of the danger of delay and agitation, and cheering them with the promise of better times to come, and ‘ the prolific expansion of hitherto unexplored resources ;’—they seem to have received the message with a kind of sullen tranquillity. They were willing that it should be so ; they had never advocated slavery as a good thing in itself, but only as a thing profitable to them ; no Englishman could desire the improvement of the negro population more sincerely than they,—let but the proof of this cost them nothing, and they would be proud to prove it ; they would do their best to secure all the good that could, to avert all the evil that might, arise from an experiment in legislation, of which the history of the world furnished no parallel ; nor were they without hope, so ably had Lord Mulgrave disposed the forces at his command, that the island might, after all, be preserved in peace ;—that the perilous condition of the colony would ever settle into permanent prosperity, they were less sanguine—but at that also, should the period ever arrive, they would be ready to rejoice.\*

To the work, however, which was assigned them, they applied in earnest ; and by the middle of December an Auxiliary Act had passed through all its stages, and was sent home for Lord Stanley’s approval. Lord Stanley had promised to construe any such act candidly and liberally, according to the desire rather than the performance ; and most liberally did he redeem his pledge. The Act in question was in its supplemental parts extremely deficient, as he seems to have perceived ; though we cannot think that he perceived the whole length and breadth of the deficiency. Many necessary clauses were omitted, some objectionable ones inserted, from which much inconvenience has been already felt, and more is to be felt yet. The offences which might be committed by apprenticed labourers, and the penalties attached to them, were very loosely defined ; the obligations of the master towards the apprentice more loosely still. The supplies of food, clothing, medicine, &c., were not defined at all—they were to be ‘ customary’ or ‘ sufficient’—and how much was to be considered ‘ sufficient’ was left to the decision of the parish vestry ; that is, of the masters themselves. No security was taken against the use of improper whips, or improper places of confinement. Worst of all, one mode of arbitrary punishment, and that no light one, was still left in the masters’ hands. If he had a complaint against an apprentice, and the special magistrate were not by, he might order

\* See Parliamentary Papers, I. p. 26. It is proper to state that we give the *meaning* only, not the *words*, of the address.

him into confinement till the magistrate could be sent for ; provided only that the complaint was to be preferred when he did come, and that if he did not come within twenty-four hours the apprentice was to be released. The pretext for this clause was safe custody—a thing not wanted in one case out of a hundred—but its practical operation would obviously be to leave a punishment of undefined severity in the hands of the master ; with no better security against the abuse of it than a small fine in case the complaint should be adjudged frivolous. Moreover, the Act contained no adequate provision for determining the *class* to which each apprentice belonged ; and the regulations for compulsory manumissions were in many material points defective. Some other objections, of less practical importance, we pass over ; but Mr Jeremie has made the worst of them, in his evidence before the Apprenticeship Committee, which the curious may consult.

All these defects were, however, regarded by Lord Stanley (perhaps justly enough) as oversights, rather than intentional departures from the spirit of the British Act ;—as entitled, therefore, to the promised indulgence. Accordingly, while he drew the attention of the legislature to several of them as requiring amendment, he at the same time declared that the Act was ‘adequate and satisfactory ;’ and that Jamaica was entitled to her share of the compensation ; in the romantic assurance that they would appreciate and respond to a style of dealing so ‘frank and unreserved,’ and would make their Act *really* ‘adequate and satisfactory,’ not for money but for love.\*

This, it seems to us, was a mistake ; and, to say the truth, it is much easier to understand and sympathize with the feelings under which Lord Stanley acted, than to justify his yielding to them. We cannot but think that, instead of encouraging the Assembly, and indulging his own courteous impulses with promises of liberal dealing, and constructions of law according to the presumed intention rather than the actual effect, he would have done better had he reminded them that all liberal dealing was forbidden him by the public duty he was charged with ; that he was bound to the most jealous and rigid construction of all their enactments ; that the intentions of one Assembly were no security for the intentions of another ; and that even if they were, the construction which the law would bear in Courts of Justice had nothing to do with the construction which its makers intended it to bear. Neither was the promptitude of the Assembly, however laudable in itself, and however beneficial as an example, in passing their imperfect



law, any good reason for granting them this indulgence.\* If the promptitude was catching, so was the imperfection. If speedy legislation in one colony was likely to speed legislation in others, it should have been remembered that one imperfect Act approved was likely to entail its imperfections on the rest. Whatever was accepted as adequate in the first, could not be rejected as inadequate in those which followed. Neither can the event be pleaded in justification. If it was an error at all, it has certainly not proved a lucky one. To this original mistake most of the imperfections which we shall have to notice in the working of the new system may be distinctly traced. Of the very inconsiderable portion of truth which, by the admixture of some unnamed ingredient, has on certain recent occasions made itself appear so terrible; which has filled the capacious lungs of Mr. O'Connell, expanded to the full dimensions of Exeter Hall, and after forcing conviction like a shock through a thousand hearts, has been condensed into six columns of the *Times*;—of the very inconsiderable number of facts which were swelled into so considerable a manifestation, we believe that the greater number would never have happened, if all the objectionable provisions in the first Jamaica Act had been resisted as they ought to have been, and the compensation withheld until every defect, whether in design or execution, had been removed,—until really adequate and satisfactory provision had been made for giving effect to the British Act.

However, the deed was done—the money was paid. Thenceforth, whatever amendments the Assembly might think it right in delicacy to pass, must in prudence be accepted, as so much better than nothing.

Mean-time, Lord Mulgrave prorogued the Assembly, in a speech of just congratulation, in which they could hardly join, mixed with good advice, which they do not seem to have generally followed; and the members returned home to assist in allaying any excitement or misapprehensions which the agitation of the great news might have excited among their slaves, and which might possibly break out during the license and relaxed discipline of the Christmas holidays in some disturbance. At the same time the number of troops was doubled; the militia was warned to be in immediate readiness; and Lord Mulgrave himself went round the island diffusing confidence and tranquillity. But there was nothing to fear,—the news had only excited in the negroes a greater content, cheerfulness, and alacrity.

The preparations for the 1st of August went on slowly. Spe-

cial magistrates began to arrive by twos and threes—here and there a planter might be seen modifying his system and sloping the way to the change—and measures were in progress for the organization of an efficient police : in the midst of which Lord Mulgrave quitted the government on account of failing health. He was succeeded in March by Lord Sligo, himself an owner of property in Jamaica, and at one time, we believe, an opponent of emancipation ; but really a noble Lord ; humane and earnest in his purposes—clear and frank in his dealings ; teeming with unwearied activities ; plunging boldly into the middle of all businesses in the confidence of a just intention, and writing like a man. The interval between his arrival and the 1st of August seems to have passed in enquiries and observations, in tours of inspection, in distributing proclamations to be read among the slaves, in receiving, disposing, and instructing the special magistrates. On the 26th of June the Assembly met again, and having passed the Police bill, proceeded to take into consideration the suggested amendments in the Abolition Act. Several of them they adopted in a new act passed on the 4th of July ; taking care, however (with a caution which Lord Stanley had probably not permitted himself \* to anticipate), that it should expire at the end of 1835. This Act Lord Aberdeen accepted † as a satisfactory compliance with Lord Stanley's suggestions—as indeed what else could he do ?—objecting only to the period of its expiration, which he left them to alter if they would.

Thus the time wore on to the 1st of August—the eventful day, big with the fate of planters and their prophecies, which was to settle the long disputed question, *whether the driver's whip could indeed be laid down without blood*. Here is Lord Sligo's Report, written on the 13th :

‘ In all parts of the island, with the exception alone of Saint Ann's parish, the transition from slavery to apprenticeship has been effected in the most satisfactory manner. It is a remarkable feature in the progress of that transition, that the 1st of August was devoted in most parts of the island to devotional exercises. In the sectarian chapels the service was performed several times in the course of the day. In fact, as long as a fresh succession of auditors presented themselves. It has been generally remarked, that hardly a drunken man was seen in the streets on that day ; the Saturday was divided between business and pleasure ; they were fully aware that the next day's market would be abolished, and in consequence of this, being an holiday besides, the markets on that day have been remarked every where to have been unusually large. To-

\* Parliamentary Papers, I., p. 36.

† Ibid. p. 44.

wards evening the streets were crowded with parties of Jolly-Canoe Men and their usual noisy accompaniments. At night in some of the towns there were fancy balls, in which the authorities of the island, past and present, were represented. Several individuals in the towns had given dinners to their new apprentices on the previous day, and on very many of the estates steers were killed by the proprietors and given to the negroes, besides their usual holiday allowances of sugar, rum, and salt-fish; so that both in the country and the towns the apprentices had their due share of amusements. On Sunday, the places of worship were again unusually crowded, and the day passed over in the most orderly and quiet manner. My reports from all parts of the island, with the exception of St Ann's alone, state that on Monday the apprentices turned out to their work with even more than usual readiness, in some places with alacrity, and all with good humour.'—P. 44.

It appeared afterwards that, in four or five parishes, some petty disturbances had taken place, owing chiefly to the indiscretion of overseers and managers, who had withdrawn the nurses and field-cooks, had stopped the paths leading from the negro huts to their provision grounds, or had refused to the mothers the time necessary for suckling their children; \* but all of these had been easily quelled. In one instance, there had been an obstinate *strike* of work, which was not overcome without some severe punishments, and some show of military force. In another, an attempt was made to rescue some apprentices from punishment, and, in the confusion, a trash-house was set on fire; but it was found that only two men had been concerned in it, and order was very soon restored, without resorting to any farther severity.† The rest of the island appears to have been perfectly tranquil, and so the terror of that day passed by. *The driver's whip had been resigned to the magistrate; sudden destruction had not come to man or beast.*

But though a negro could be quiet without whipping, it did not follow that he would work. All practical men knew that he would not; and now the time was come to prove it. August, September, October passed on, and the new system was still struggling doubtfully. It had not yet got under way. The practical men sat inactive,—waiting for the fulfilment of their prediction. The number of special magistrates was insufficient. The cane-pieces were growing foul. Crop time was approaching; and how was the crop to be taken off? All parties agreed that, in the 45 hours a-week allowed by law, it could not be done; and Reports were coming in to Lord Sligo from all quarters,

that 'the apprentices were most unwilling to work for hire.'\* It was time for the Assembly to interfere: a case could now be made out against the new system.† Three committees were appointed to enquire how it was working, and how it could be made to work better. The greater part of November was spent in taking the opinions of practical men. Thirty-two persons connected with the management of sugar estates were examined; of these twenty-seven agreed that the system was working ill, and anticipated a ruinous deficiency of produce;—nine of them estimating the probable falling off at not less than one-half; twelve at not less than one-third; a twenty-eighth thought the system was working pretty well, and the produce would not fall off more than one-fourth. The remaining four reported favourably, and anticipated no great difference.‡ On the 13th of November, the first of these committees arrived at the following conclusion,—not an unimportant one in the history of West Indian prophecy:

'That the new system is not succeeding; that forty and a half hours of labour in the week are inadequate to enable the cultivation of the country to be continued; that the negroes are performing no fair proportion of work, even during that limited number of hours, and that during their own time very few of them will work for such rate of wages as sugar cultivation can afford to pay; that idleness and contempt of authority are daily becoming more apparent and alarming; that the pimento crop, the only article that has come to maturity since the 1st of August, has been, to a great extent, lost to the proprietors, from the impossibility of getting it gathered in; that the coffee crop, now commencing, is likely to share a similar fate; and that the prospect to the proprietors of sugar estates is still more desperate, *in the certainty that their canes must rot upon the ground*, from the absolute impossibility of manufacturing the juice into sugar during the limited number of hours which the factories can be kept in operation.'—P. 49.

Divers recommendations followed; and the Report having been discussed in the Council and Assembly, was forwarded to Lord Sligo on the 26th of November, with an Address, requesting him, as the only chance of averting all this ruin, to invest forthwith a sufficient number of local magistrates with the special commission. He replied, that he could not do that, but that more special magistrates were already on their way from England; that he would make the system work well enough if they would but lend him their hearty co-operation; and that, if they would not, they must take the consequences themselves.§

\* Parliamentary Papers, I. p. 48.    † P. 49.    ‡ Pp. 75, 108.  
§ P. 49.

In the mean-time, the special magistrates had not been idle. While the Assembly was busy in proving that the system worked ill, they were occupied in making it work well; and by the time that the Assembly had got all their proofs in order, the case was altogether altered. The jealousies and misapprehensions which clouded the minds of the apprentices had been cleared away. And scarcely had Lord Sligo replied to the Address when letters began to come in from all quarters, reporting that arrangements had been made for taking off the crops, with every prospect of success; and that there was no difficulty in inducing the negroes to do extra work for such wages as the estates might very well afford. On the 9th of December he writes:—

‘I am happy, however, at being able in conclusion to state, that in spite of all the obstacles which I have met with, matters are, up to this date, hourly coming into a more healthy state. The masters are becoming more reconciled to the new system, and the apprentices more reasonable. The consequence is, that the negroes are falling by degrees into a steady system, advantageous alike to themselves and the proprietors. I cannot help thinking that the managers will now, when the important season of crop is arrived, feel that their interests are too important to be trifled with; that ruin must follow their want of success; that all chance of recovering their lost power of punishment is passed by; will really co-operate, and each in their own interior adopt their only resource, a humane but energetic system, which will produce the best effects on the minds of the apprentices. In that confidence, I look now with much less apprehension on the result of the present crop, than I did some few weeks ago, although I have no certainty on the subject.

‘I have not the slightest apprehension of any disturbance at Christmas; but at the same time I think it expedient to send out the usual detachments, which will move on the 17th, and, I trust, return home on the 10th January. I do hope that after this occasion there will no longer be found any necessity for the adoption of this expensive measure.’—P. 63.

The new system was now fairly under way. Each succeeding report was more favourable than its forerunner. The planters were growing daily more reconciled; all alarms of disturbance and insurrection had vanished; and doubts began to arise whether, after all, the canes would really rot in the ground. The Christmas holidays came, were spent merrily, and passed off quietly; the negroes returned cheerfully to their work. On the 1st of January, Lord Sligo sent extracts from all the letters which he had received on the subject,—showing that all over the island they were behaving as well as need be. The rest of that month and the next was occupied in receiving more Reports to the same effect. ‘On all the estates, where hard labour had gone on for two or three weeks, and wages were regularly

'paid on Saturday night, any extent of work might be performed' \*

Thus the first chapter of the experiment was closing, to the surprise of *practical men*. But one thing was yet wanting to wind it up; to clench the conclusions which it pointed at; and finally to dismiss into oblivion the Evidence, the Report, and the Recommendations of the November committee. The special magistrates had indeed *said* that the crop could be taken off; but they might be partial, or ignorant; whatever they might know of the new negro character, they knew nothing about the raising of sugar; what had been *done*? This last refuge of destitute discontent Lord Sligo, who shuns no enquiry, and fears the face of no fact in the world, determined to overthrow. He called for as many returns as could be procured from the managers, of the quantity of sugar which had been actually made up to the latest period, as compared with the quantity made up to a corresponding period the year before. These returns may be found at pages 20 and 36 of the second part of the Parliamentary papers, in the state in which he received them. The result may be best seen in the following summary, which we have made by our own private arithmetic.

Summary of Returns showing the number of hogsheads of sugar made on several estates in Jamaica up to the 28th of February, 1834, and up to the same date 1835; amounting to something less than one-fifth of the whole.

Parishes.	1834.	1835.	Increase.	Decrease.	Per Cent.	
St Andrews, .	357	318		39	10.9	
St Catherine, .	25	18		7	28	
Clarendon, .	854	849		5	0.5	
St David's, .	551	377		174	31.5	
St Dorothy's .	184	248	64		3.4	Incr.
St George's .	12	17	5		41.6	do.
Hanover, .	774	616		158	20.3	
St James's .	1861	1332		529	38.4	
St John's .	118	128	10		8.4	do.
St Mary's .	204	147		57	27.9	
St Thomas in East,	1851	1602		249	13.3	
St Thomas in Vale,	376	305		71	18.8	
Trelawney, .	1660	1572		88	5.3	
Vere, .	1066	1171	105		9.8	
Westmoreland, .	5820	5051		769	13.2	do.
Totals, .	15713	13751	184	2146	12.5	Dec.

\* Parliamentary Papers, p. 115.

Thus we see, that at the end of February, the produce had fallen below that of the preceding year by not more than twelve per cent; though, only three months before, a falling off of at least thirty-three per cent had been confidently predicted by twenty-seven planters out of thirty-two! And this comparatively trifling deficiency was afterwards reduced by about a third. The whole crop of 1835 fell below that of 1834 by about 8.5 per cent\*.

It was now therefore clear, even to experienced persons, that the crop then on the ground would be got off, and got off without difficulty or ruinous expense. Thus far the visionaries had proved the truer prophets. The predictions of the November committee might be put by. All alarms on that score fled from the minds of men, and took refuge in the Newspapers—the last refuge which false things find on earth before they take their final departure to the place appointed for them.

But what matter? Experience was not yet exhausted; other predictions might yet be made. The negroes might work in taking off the crop; it was a kind of work which they had always liked.\* But would they work in digging the ground? Experience answered NO. Ruin, then, would come in 1836 instead of 1835. In a Memorial, drawn up in May, 1835, by the proprietors, planters, and other persons connected with the management of plantations in Trelawney, this new prophecy found fit utterance. The Memorial showed that the apprenticeship system 'had, after nine months' trial, confirmed the anticipations of all 'practical men of its ruinous consequences;' the present sugar crop, for want of the requisite labour, did not promise to be 'even 'an average one;' such as it was, it had been purchased at the expense of the necessary preparations for the next; the falling off next year would be more serious, the year after more serious still, and so on till the system terminated in the gradual throwing up of sugar estates; thus, 'they had the miserable prospect 'before them, that in a short period the cultivation of the staple 'productions in the island must cease:' the only chance left was a large emigration of whites at the expense of the mother country.†

This Memorial was signed by seventy-three persons, and, at their request, was immediately forwarded by Lord Sligo to the Secretary of State. Close upon its heels followed letters from each of the special magistrates, whose districts lay in that parish, written of their own accord,‡ denying, on the authority of the overseers themselves, that the statements were true as regarded that immediate neighbourhood; || and, about a month afterwards,

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\* See the evidence given before the Committee of 1832.

† Parliamentary Papers, II. p. 44.    ‡ P. 215.    || P. 45-47.

came a host of Reports from all parts of the island relative to the state of cultivation and the prospects of next year's crop ;\*—the sum of which was, that on 224 out of 762 estates, the cultivation was, from various causes, more or less backward ; a result more favourable than Lord Sligo had anticipated, and readily enough accounted for without adopting the conclusion of that melancholy Memorial.

But crop was now over, or nearly so ; and this last best prediction was coming, like its predecessors, to the proof. That it was not confirmed by the event, does not appear to have been the fault of the planters. The interval, which was yet theirs, seems to have been used in a strange manner—used in devising new modes of vexation, in reviving a system of oppression not the less odious because it was now altogether ineffectual,—in spreading discontent and distrust all round them. Before the last crop commenced they had done simply nothing ; when it came on, and they found that ‘ their interests were not to be trifled with,’ they had adopted a more liberal and conciliatory system with complete success ; but now that the pressure and alarm were over, their hearts were hardened, and they would fain recover what they had lost. Such instruments of arbitrary annoyance as were still unhappily within their reach, they eagerly grasped at. Indulgences, which custom had made necessities, were withdrawn, or extra labour exacted in return for them. Old and feeble persons, mothers of many children,—‘ sitting down people,’ as they were called,—were employed in labours which the customs of slavery had spared them. Women in the latter stages of pregnancy, or soon after confinement, were ordered to work in the field. The ‘ eight hour system’ †—an arrangement, of which the object, and apparently the only object, was to deprive the negroes of their half holiday on Friday—was generally adopted. Though it was visibly spreading discontent all over the island, it became so favourite an object with many of the planters, that meetings were got up in various places to bring it into fashion, and remonstrances only made them the more determined to have their way.‡

By such devices as these, a considerable number of the plan-

\* Parliamentary Papers, 224—239, 270.

† The system under which the apprenticed labourers were made to work eight hours for the first five days in the week ; instead of nine for the first four, and four and a half on the fifth. The law admitted either arrangement.

‡ See Mr Bravo's Letter, III. p. 87.



ters seem to have hoped, in spite of all reason and all experience,—experience so plentiful that it might be had for the picking up,—to make the negroes work freely in the kind of work which was least agreeable to them. That there was much positive cruelty in their proceedings,—that in physical comfort, indeed, the negroes were much the worse for them,—we see no reason to believe. But morally and politically, the effect must have been extremely bad; worse, probably, than the planters themselves can be made to understand. It was a most false step at a most critical conjuncture. How many hearts willing and ready to learn that a master might be a friend,—how many confiding dispositions then timidly venturing forth—shrunk back corrected by those most foolish proceedings, and relapsed into their former not unreasonable jealousy, must be for ever left to conjecture.

With all these exertions, however, they did not succeed in bringing to pass the evils which they had predicted. From this time Lord Sligo's Despatches come thicker and thicker. The special magistrates' Reports grow longer and more numerous. Every successive packet brings in a cloud of anecdotes, facts, opinions, and anticipations, of various tendency, credibility, and weight; but carrying with them altogether indubitable evidence of a general advance on the part of the negroes both forwards and upwards;—offences less frequent; their new position and obligations better understood; instances of mutual confidence more common; marriages coming into fashion; more wages paid; more work done; cultivation recovering its proper forwardness, in some instances extending itself; the digging of cane holes becoming the favourite, because the most profitable, kind of work; \* here and there a plough taking place of the hoe gang—it being found 'that even negroes could guide and manage' it; that they could see straight enough; which till of late seems 'to have been generally disbelieved'; †—in a word, the last best prediction of the *practical men* not coming true.‡ The Tre-lawney Memorialists may cheer up. Their Memorial may be put by.

\* Mr Pryce's Letter, III. p. 374.

† Mr Daughtry's Letter, II. p. 264.

‡ It is of course impossible to make distinct references in support of a general statement like this. The better, however, to assure ourselves that it is the result of no vague impression made up of what is most agreeable in the evidence, but of a fair judgment upon the whole, we have thought it worth while carefully to analyze the entire series of Reports for October, 1835, and we have noted the following conclusions, as distinctly deducible from them :—

From this time to the end of June, when the correspondence terminates, the tenor of these Reports continues much the same, so far as the general working of the Apprenticeship is concerned. Crimes continued to grow less frequent; complaints between master and apprentice fewer; corporal punishment was more rarely inflicted. In the early part of December 'an extraordinary revolution all over the island'\* was announced by Lord Sligo in the feeling between master and apprentice. The planters 'appeared to be aware of the perilous consequences of

1. Throughout the island, without exception, the apprentices showed no disposition to be insubordinate as a body.

2. In every district, without exception, they are represented as improving.

3. In every district except two (Jones and Harris, St Thomas in the Vale), in which they are described as sullen and obstinate, their behaviour to their masters was proper and respectful.

4. In every district except six (Hulme, Hanover; Jones and Harris, St Thomas in the Vale; Dawson, Willis, and T. Baines, St Thomas in the East), they were doing a fair proportion of work in their masters' time.

5. During crop they had in almost every instance laboured in their own time for wages willingly and well.

6. Both in and out of crop, where high enough wages were offered (*i. e.*, more than they could make by working on their own grounds), they were in the great majority of cases willing to work for hire.

7. During the hours of labour they were doing at least as much work as they did during slavery—generally much more.

8. In working by the task, they had in all cases shown unusual energy and activity.

9. Of the six properties on which the apprentices were described as not doing their fair work, there was only one on which the cultivation was said to be backward, or the prospect of the ensuing crop unpromising. Wherever else the cultivation was backward, it was ascribed to weather, mismanagement, scarcity of hands, or other causes; but *not to any misconduct on the part of the negroes.*

10. In the cultivation of sugar, much labour and expense might be saved by using the plough. Where it had been tried, it had been perfectly successful.

11. The planters themselves were beginning to be of opinion, that during the apprenticeship the staple articles might still be successfully cultivated. This appeared, in some cases, by their own confession;—in others, by their more extensive preparations for ensuing crops.

12. In general a better feeling was growing up between master and apprentice.

13. Crimes of a serious kind were rare.

\* P. 150.

‘harshness. And (with a few obstinate exceptions) a totally ‘different manner of treatment had been adopted, which promised the happiest results.’\* It was observed also that the Christmas holidays had passed over more rationally than was ever before known; that there had been less ‘John Canoeing’ than usual; and that Christmas-day and Sunday had been spent in a remarkably serious manner. In the mean-time, the cry of ruin was no longer heard. Silence, more significant than speech, had fallen upon the planting interest. A severe drought during October and November had blighted the promise of the ensuing crop; heavy rains during the following summer had retarded the gathering; it was the shortest that had been for many years; yet the planters did not despair. Their hopes had risen with the price of sugar. Ruin was not to come till 1840 at least. Instead of preparing themselves for ‘the gradual throwing up ‘of sugar estates,’ they began to enlarge their cane-pieces; to pay higher wages; in many instances to restore old indulgences which had been withdrawn; and, in short, to bid boldly for their share in the *expected profits of the apprenticeship*.

The foregoing pages contain, we believe, a fair picture of the progress of the Apprenticeship in Jamaica, in its broad and general features. For the truth of it, we appeal with confidence to the testimony of the special magistrates;—a confidence not shaken by the scorn with which some persons—who would be thought to know what they are speaking of—have set aside that testimony as worthless. We are not unaware of the light in which these gentlemen have been held up in pamphlets and at public meetings; nor of the plausibility of the arguments and anecdotes which have been advanced in illustration. Stories have been told, many of which we can well believe to be true, of secret oppressions passing undetected by them, or detected too late for redress; of piteous tales summarily set aside as frivolous; of lashes inflicted for offences apparently slight; of stinted allowances, and medical neglect; of pieces of plate presented by the planters to magistrates dismissed for misconduct. Stories like these, told confidently one after another, without any allusion to the countless stories of exactly opposite tendency which *might* be told, will naturally make a deep impression on persons, unprepared by an acquaintance with the whole matter, to assign to them their proper place and *comparative* importance. They may even seem to countenance the opinion that the special magistrates are the mere agents of the overseers and managers; and

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\* Parliamentary Papers, p. 161.

their reports worthless, as excluding every thing which is either disagreeable to the planters or discreditable to themselves. We, however, who have been led, in pursuit of the truth, to peruse the Reports in question—stretching as they do over many scores of closely-printed folio pages,—to read them all through, and to scrutinize many of them very closely,—*are bound to say that the opinion is most unjust and injurious, and altogether destitute of plausibility.* We will venture to add, that no reasonable person who has read any considerable proportion of the Reports contained in these volumes, can believe it to be true. There is nothing for which these compositions are more remarkable than the distinct impress which they bear of the temper and spirit in which they are written. We almost feel personally acquainted with the greater number of the writers. We could almost point out by their styles the good, the bad, and the indifferent. One writes himself down a feeble magistrate; another harsh; another careless; another pompous. One or two we place no faith in; and there are a few who give us little or no information. But taking them as a miscellaneous body of men,—who have to ride two or three hundred miles and dispose of five or six hundred complaints every month, and to receive only L.450 a-year,—we must say that they have discharged their most important, but at the same time most difficult, laborious, harassing, and thankless duties, *with a degree of zeal, ability, and integrity which deserves some other reward than these idle aspersions.* That they have not succeeded in protecting all apprentices against all injustice, is most true. That they have not even detected all the injuries to which the apprentices have been exposed, is most probable. That where they have detected the injury, they have in some cases been unable to afford redress, we are not prepared to deny. But, that complaints have been preferred and not listened to—abuses and oppressions detected and passed over—injuries proved and not redressed, so far as redress was practicable—we have yet to learn. That such things have happened in any considerable number of instances we should find it very hard to believe; and, to say the truth, we could well wish that those who are so dissatisfied with the measure of justice which the negroes obtain under the Apprenticeship system, would suggest the means of securing for them as fair a measure when the Apprenticeship shall be over. As far as we can make out, the worst injuries to which the apprentices are exposed, have been inflicted by the overseers and managers; acquiesced in by the local justices; brought to light by the special magistrates; prosecuted by the Attorney-General; and finally secured from punishment by the Grand Jury throw-

ing out the bill.\* We fear that all this indicates an inveterate disease which will hardly yield to the simple specific proposed by Mr Beaumont—an extension to them of the elective franchise.† Elect who will, be returned who may, summary justice there must still be; and it will be but Jamaica justice when all is done.

What, then, after all, has been the effect of the change upon the interests of the two parties more immediately concerned—the Planters and the Apprentices?

That the effect upon the planters has been less injurious than they expected, will hardly be denied. Ruin was to have met them at every step. First, the negroes would never be restrained from violence; then they would never be compelled to work without the driver and his whip; then they would never do extra work in crop-time for wages; then they would never do extra work out of crop-time for wages, and so on. All these fears are blown away. It is quite clear that the planters are not yet ruined. But there is yet room for one fear more. Though they can get as much labour as they want, it does not follow that they can afford to pay for it. Though sugar cultivation be carried on, it may be carried on at a loss, or at a profit so much reduced, that the planter may have a right to complain.

Let us now enquire how the matter really stands. Unfortunately, our information on this head is very partial and incomplete. The few cases, however, on which we have sufficient data for comparing the present with the former profits of sugar estates will, perhaps, if rightly weighed, justify a pretty large conjecture as to the rest. Or, though they may not help us to a knowledge of the profits which have been actually made by the Jamaica proprietors since the apprenticeship began, they will at least enable us to judge with some accuracy what might have been made by a judicious management.

It must be remembered, that besides the gratuitous labour of each apprentice for forty hours and a half during the week, which the proprietor still retains, he has received, in compensation for what was taken away, a sum of money, of which the annual interest amounts, in Jamaica, to about L.1 sterling for each apprentice.‡ This he may do what he likes with. He

\* See 'Correspondence relative to maltreatment of prisoners in the House of Correction,' &c. Printed for the House of Lords, 15th July, 1837.

† See Evidence taken before the Apprenticeship Committee, 4294, *seq.*

‡ See Mr Shirley's evidence before the Apprentice Committee, 5060, *seq.*

may throw it into the Thames or the Mersey in disgust; he may keep it in a napkin, to show how much less it is than what he has lost by the diminished produce of his estates; he may place it in the funds, as so much saved from the wreck; he may invest it in land or railroad shares at home, or send it abroad on other adventures. But unless he spends it upon his estates in Jamaica, he has no right to complain that the produce of those estates is falling off.

Now, though we know how much sugar has been annually made by the apprentices, at what prices it has sold, and what is the amount of compensation, we cannot ascertain generally what has been the additional cost of production. We cannot therefore represent in figures how much the Jamaica proprietors have gained or lost by the change; or how much of the diminution of produce is to be charged upon themselves, as not having laid out in wages all the money which was given them for that purpose. We have little doubt that if the truth could be known, nearly the whole deficiency of the sugar crops of 1835 and 1836 might be accounted for in this way. We believe that a very small portion of the interest of the compensation has been applied to this purpose; and that much even of that has been applied injudiciously in hiring jobbers at an enormous price, when the apprentices might have been induced to do all the work that was wanted by a comparatively trifling advance in the rate of wages. This, however, without having access to the estates' books, we cannot prove. We can only prove that the evidence we have, so far as it goes, points that way.

This evidence was given before the Apprenticeship Committee, in 1836, by four different planters, all sensible and liberal men, each of whom adopted a different style of management with answerable results.

First, there was Mr Maurice Jones, with about 6000 negroes under his management,\* who set out with an unfavourable opinion of the Apprenticeship, which has not been altogether removed, and is now anxious (solely, he says, in consequence of the abolition of slavery) to separate himself altogether from Jamaica.† This gentleman began by assuming that sufficient labour to keep up his former cultivation would not be procurable, and at once threw up one-third.‡ He did not, however, reduce his former expenses. He continued all the old allowances and indulgences, || and paid wages for all the extra labour

\* See App. Com., 5316.

† 5369.

† 5489-90.

|| 5354.

which was wanted for the cultivation of the remaining two-thirds of his estates.\* This extra labour cost him L.336 currency, where formerly it used to cost him only L.200.† The issue was, that two-thirds of an average crop were produced. The two estates used to produce 300 hogsheads. One-third being abandoned, they produced only 200.‡

Now, the interest of the compensation money would have enabled Mr Jones to lay out L.500 sterling in extra labour, in addition to his usual outlay; whereas he only laid out L.136 currency, or about L.80 sterling. The remaining L.420 remained idle. Had this sum been employed in cultivating the abandoned portion of the property, it is not impossible (as Mr Jones does not seem to have found any difficulty in procuring labour) that the other hundred hogsheads might have been made.

Next comes Mr Miller, who also began with a bad opinion of the Apprenticeship, § though he now entertains a better. He had several estates under his management, and did not manage them all alike; but he has furnished full particulars of the expenses connected with one of them, which may be taken, we presume, as a fair specimen.

He also, in common with all the large attorneys, continued the old allowances and indulgences as usual,|| but abandoned no part of his cultivation. During the first four months of the Apprenticeship he paid no wages—appears, indeed, to have made no attempt to obtain extra work;¶ but in December he made arrangements for taking off the crop. The estate in question contained 320 apprentices. To these, during the eighteen weeks of crop, he paid wages for extra work at the rate of about L.13 currency a-week.\*\* His whole additional expense, therefore, amounted to L.234 currency—about L.137 sterling; and the result was, that the produce of the estate fell off by not more than one-tenth;†† and that falling-off was owing, he says, to ‘want of labour.’

Now, supposing the interest of the compensation to have been about L.320 sterling, we find that Mr Miller could have afforded to pay L.183 sterling more than he did; and that would have enabled him to keep up the same quantity of extra labour for five or six months longer,—which labour, judiciously applied,

\* 5318, 5324, 5434-6.

† 5397-8.

‡ 5383.

§ See his evidence before the Jamaica Committee of November, 1834. Parliamentary Papers, I. p. 98.

|| 3651-5.

¶ Parliamentary Papers, I. p. 98.

\*\* 3556, *seq.*

†† 3591.

would have probably ensured not only an average crop that year, but adequate preparations for the next. \*

Next comes Mr Oldham, a proprietor and attorney, with 4000 negroes under his charge,\* who entertains a favourable opinion of the Apprenticeship,† and thinks Jamaica property a good speculation.

He also continued all the usual indulgences and allowances,‡ and paid liberal wages. In return, he found no difficulty in getting as much work as he wanted,§ except on Saturdays, when he was obliged to hire jobbers.

His extra expenses amounted in twenty-two months to about L.2000 currency for wages, and about L.8000 currency paid to jobbers.||

Now, the interest of the compensation during the same period amounted to about L.10,728 currency. Nearly the whole of this, therefore, he had spent in the proper way. And what was the result? That the crops produced were about equal to those produced during slavery,¶ or rather more.\*\*

Lastly, we come to the plan adopted by Mr Shirley, apparently the most judicious of all. It was he who gave it as his opinion,†† before the Jamaica Committee, in November, 1834, that the Apprenticeship would do very well; and was taunted‡‡ in return with his short residence in the island and his unacquaintance with the negro character.

He seems to have been almost the only proprietor whose plans extended beyond the term of Apprenticeship. Most of them seem to have thought only of getting off the current crop. Others looked forward to the year beyond, and laid out money in the necessary cultivation. Others again went farther, and, by general kindness and liberality, by promoting education, and encouraging the negroes to work for wages, endeavoured to secure their lasting confidence and good-will. But Mr Shirley alone seems to have aimed at altering and elevating their position;—at making them feel less like apprentices, and more like hired labourers;—and thus at giving them a foretaste of independence, and of that feeling of responsibility to themselves for their own actions which goes along with it.

\* 4581-4.

† 4664-70.

‡ 4802-36, 4865, 4900-17.

\*\* Letter to Lord Sligo; Parliamentary Papers, III. p. 378.

†† Parliamentary Papers, I. p. 61.

† 4818-9.

§ 4743-8.

¶ 4812.

‡‡ *Ib.* p. 5099.



He began by explaining \* to them how much labour he had a right to require from them—40½ hours weekly, at a rate of not more than nine hours a-day. This was an hour less than their accustomed day's work, and might possibly give rise to disputes. To avoid this, he proposed (it appears to us most judiciously), that they should go on as they had been used to do,—working ten hours a-day for the first four days in the week; and then, if they would agree to work the fifth day also, he would allow them for that day's work the highest wages which he could afford to pay; and this arrangement should extend to the whole gang, and continue the whole year round.† To this they assented readily; and it was settled that they were to work for him in the ordinary way for five days in the week, receiving wages every fifth day.

But this was not all. It was desirable to accustom them not only to receive wages regularly, but to look to them as a part of their ordinary means of subsistence, instead of a mere matter of extra luxury; ‡—to accustom them, in short, to labour for their daily bread. With this view, he immediately withdrew such usual supplies and allowances as he could withdraw legally; on the understanding that the value of them was to be added to their Friday's wages. By adding the sum thus saved to the interest of the compensation, he found that he could afford to pay them for their fifth day's work a sum equal to the highest sum paid to jobbers. The whole arrangement appears to have been fully understood by them, and cheerfully assented to.

In this way, having laid out the entire interest of the compensation, and the entire value of the withdrawn allowances in wages for extra work to the whole gang the whole year round, Mr Shirley found that he had made as much sugar as he could have made if slavery had been continued; § that his preparations for the succeeding crop were just as forward as usual; and, in addition to all this, that he had put his Apprentices in the fairest way to understand the duties and appreciate the position of the free labourers which they were shortly to become.

It may, perhaps, be suspected that these cases have been selected for show, out of many others which would have given a different result. This, however, is not true. These four cases are all that we have been able to find, in which particulars enough are given for comparing the present with the former position of the Jamaica proprietors. So far as they go, they appear to justify the inference, that if any planter be a loser

\* Parl. Papers, 5037, seq.

† 5090, 5102, 5106.

‡ 5092.

§ 5084.

under the new system, it is only because he has not used his capital judiciously. To say positively that no instance has occurred in which the whole interest of the compensation has been laid out on the property, and yet the produce has fallen off, is of course impossible. We can only say, that, if any such case has been brought forward, we have not succeeded in discovering it.\*

If our inference be correct—and we claim for it no more authority than appears in the premises—it is one of considerable importance; because we cannot find any other statistical information from which a safe conclusion can be drawn as to the prospects of the planters, and the work that may be looked for from the apprenticed labourers.

For indications of the value of Jamaica property in the market, we have searched in vain. Some large assertions have been made about it, but they appear to rest on the credit of the assertors. Captain Oldrey, in his evidence before the Apprenticeship Committee, said he could prove that it had risen from 30 to 50 per cent.;† and Mr Beaumont declared that it had risen at least 25 per cent.‡ But no proof was offered in support of these opinions; and the truth seems to be, that, though notoriously more valuable than it has been, it has not yet acquired any settled price in the market; and therefore no accurate estimate of its comparative value can be formed. Some estates have been sold, others offered for sale; but they were valued according to the returns which they might be expected to make during the remaining years of the Apprenticeship, without reference to their value afterwards.§ Mr Miller|| and Mr Oldham¶ both agree that they

\* A case of increase in the value of property since the Apprenticeship, is mentioned by Mr Pennel, a special justice; *Par. Papers*, III. p. 207. 'An estate in my district was rented at the commencement of the apprenticeship system by Mr Walcott of this parish, from Mr Lyons of London, on the following terms:—Forty hlds. to be given yearly, and every thing replaced at the end of the apprenticeship that may be deficient. I am given to understand that, for many years past, this estate has not paid one fraction to the proprietor, and that Mr Walcott has, notwithstanding, been so fortunate as to clear L.1200 on the last crop, and will probably continue to do so (if not even better) to the end of the time.'

It is to be regretted that the mode of management adopted by Mr Walcott is not mentioned. A case somewhat similar is related by Mr Innes in Antigua.●

† *Parl. Papers*, 3142.

‡ 4469.

§ See Miller's evidence, 3798, *et seq.*; and Oldham's, 4851.

|| 3728. " ¶ 4845.

would not give more than four years' purchase for an estate; though the former admits that 'it is a matter of feeling,' and that 'persons disposed to speculate might give more;' and the latter confessedly does not share in the general anticipation of 'a total failure after 1840.\*' It would appear, therefore, that the remaining term of Apprenticeship has a value in the market, though the land itself has not; not because it is worth nothing, but because people are waiting to see what it is worth. It is clear that it is worth something, in Mr Oldham's eyes; for he is himself a buyer;† though he will not say, and very likely does not know, how much. In fact, from the tenor of his evidence on this subject (which is not quite consistent), it may be inferred that he has made no very definite calculations as to the probable profits of sugar cultivation in future; but has certain general favourable anticipations which induce him to speculate in West Indian property himself; but not to overpraise the thing which he wishes to buy. And the general result of the enquiry appears to be (as might have been anticipated), that there is nothing in the state of the market from which any inference can be drawn as to the value of property in Jamaica, one way or other. Each person must be left to form his own anticipations.

Neither does the amount of produce, actually made since the Apprenticeship began, afford a fair criterion of the state of productive industry in Jamaica. Each of the crops has been affected by a variety of accidental causes, which will account for a temporary diminution; and by one permanent cause from which a constant diminution must always be expected and allowed for. We allude to the number of poor weak-handed estates which have hitherto been kept up in profitable cultivation, by overworking the slaves in a way which ought never to have been permitted, and therefore for the prevention of which no compensation is due; as well as to the number of properties which have been already worked out, which are naturally producing less and less every year, and are to be considered as having already paid their owners.

Independently of this, the crop of 1835 was subject to disturbing causes in two ways. First, the amount of the crop (as observed by Mr Shirley) depends chiefly upon the quantity of plants put in, and the state of cultivation in the previous year. All that was to be done in that year, was to take off, by apprenticed labour, the crop which had been reared under the whip.

\* Parl. Papers, 4837.

† See Letter to Lord Sligo, *Parliamentary Papers*, III. p. 378.

Had the crop of 1835, therefore, been a plentiful one, it would only have proved that, under the apprenticeship, a plentiful crop could be *taken off*,—not that it could be raised. As it was, it only proved that a short crop could be taken off. But then again the shortness of the crop may have been owing neither to the weather, nor to the want of work, but to the distrust of the proprietors; of whom it is probable that many, besides Mr Maurice Jones, abandoned a considerable portion of their cultivation, on the assumption that labour for getting off an average crop would not be procurable.

All that can be said is this,—that though several planters talk of the falling off of this crop as owing entirely to ‘want of labour,’ and the difficulty of obtaining extra work for hire (evidently meaning a difficulty created by the new system), it has not been stated any where, so far as our recollection serves us, that any part of the crop of 1835 was *lost* for want of labour. Nothing has been stated from which it can be inferred that—if, at the commencement of crop, the old system had been restored and the masters reinvested with all the power they ever had, and all the rest they ever wished for,—one hogshead more of sugar could have been made. Upon the whole, the only safe inference which can be drawn from the amount of produce made in 1835 is to be this,—that the negroes had worked better than the majority of planters expected,—for that they did get off the whole crop, of which it was predicted by the Jamaica Committee that a considerable portion was to rot in the ground.

The crop of 1836, however, was raised entirely by apprentices; and it may be thought that whatever falling off there was in that, must be ascribed to the want of labour consequent upon emancipation. But here again considerable deductions must be made on account, not only of injudicious management, but of the difficulties in getting the new system under way.

1st, It was impossible to prevent many of the negroes from expecting more than they were to get. It was impossible also to inspire them at once with confidence in the fair dealing of their masters,—to whose proposals they were afraid of acceding, lest they should be falling into some trap, and committing themselves to some new mode of servitude. They feared, likewise, that the wages liberally offered would not be faithfully paid. And other misapprehensions there were which obstructed the operation of the new system;—misapprehensions very natural and reasonable;—the fruit and just recompense of the unnatural and unreasonable position in which they had been placed. These misapprehensions and jealousies were indeed rapidly removed. Being trusted, the negroes were

not slow to trust again; being treated with consideration, they could be considerate in return; being paid for their labour, they were not unwilling to labour for pay. But, at the same time, there can be no doubt that some time was necessary to learn these lessons,—and that so much time was lost to the estate. Hence an undue proportion of the labour procurable was spent in getting off the current crop; to the neglect of the necessary preparation for the next.

2dly, Independently of the real difficulty which did at first exist in procuring labour for wages, there was a good deal of imaginary difficulty. Many of the planters made up their minds that the necessary labour was not to be obtained at all, and therefore did not take the necessary steps to obtain it. Up to November 1835, there were as many as 237 estates on which wages had not even been offered.\* On many of those on which they had been offered and accepted, it was only during crop. Mr Shirley predicted a considerable falling off in the crops in Trelawney, owing entirely to this cause. (See 5086—93.) Whereas on his own estates, on which extra labour had been employed all the year round, he looked for an increase instead of a decrease in 1836. Again, of those who did offer wages out of crop, as well as during crop, many did not bid high enough. The negroes could make more than the wages by raising provisions on their own grounds. Some abandoned part of the cultivation in despair; others kept up the quantity of plant, but from want of the necessary labour (that is, from not laying out enough money in wages) neglected the cleaning.†

In March, 1835, Lord Sligo predicted a falling off generally throughout the Island from these causes;‡ and, in June 1835, he sent home a set of Reports on the actual state of cultivation in all the properties concerning which he could obtain the information. The result was, that out of 762 estates, the cultivation was more or less backward on 224.

3dly, Another cause of diminution of crop must be added, in

\* Apprent. Com. App. p. 134. † Mr Shirley's Evidence, 5092.

‡ 'That the crop of next year will be somewhat deficient I have reason to fear. Such has been the dread of not getting off this crop, that all the exertion which was formerly applied to the double object of taking the year's crop and preparing for the next year's, has been devoted to this year's service. That there may have been good and sound reasons, &c. &c., but I think the apprentice has, in most places, now acquired such an avidity for money, as to remove from my mind the apprehension that any falling off in the crop of the year after next will be experienced.'—*March 27, 1835, Parl. II. p. 19.*

which certainly the negroes are not concerned; and of which we have the following timely and emphatic notice by Lord Sligo. In a Despatch, dated 13th December, 1835, he says, 'The communication I have to lament is the fact reported to me by almost all the special magistrates in their weekly journals, that owing to the unusual absence of the October seasons, the canes in most parts of the island have begun to arrow; the canes never grow after this has taken place, and as they were much stunted before, in consequence of the drought, I fear that the crop will be very short this year. It is, however, well that this should be known before the crop commences, in order that those who are anxious to misrepresent matters, if such there be, may not attribute to the misconduct of the apprentices what is the act of God.\*

Before, therefore, we can safely draw inferences from the amount of produce in 1836, as to the work that may be expected from the Apprentices, we must make allowance for these things:—

1. The unsettled state of their minds for the first three or four months after they were made free. Hardly any extra work was done till the beginning of December, when crop began.

2. When extra labour was procured, the absorption of the whole of it in the taking off of the crop, to the neglect of the next year's preparations.

3. The voluntary and probably unnecessary abandonment of a considerable quantity of cultivation, in despair of obtaining extra labour to keep it up.

4. The number of exhausted properties which (slavery or no slavery) must every year yield less and less produce in proportion to the labour spent on them.

5. The number of short-handed estates which have hitherto kept up their cultivation and got off their crops by working the slaves more severely than they had any right to do.†

6. The early arrowing of the canes, which prevented that portion of the land which was still planted, and kept in good order, from yielding its fair quantity of sugar.

7. The fact that some of the produce was sent to America, and does not therefore appear in the returns of produce imported into Great Britain, from which all these calculations are taken.‡

\* Parliamentary Papers, I. p. 150.

† 'But this [diminution] may be principally owing to the short-handed estates being obliged to be thrown up, for these estates only made sugar out of the very heart's-gore of the former slave.'—GREGG, *June 1835*, p. 241.

‡ 'The total failure of the sugar crop in the slave states of America,

The result was, that the crop of 1836 fell below that of 1835 by about one-twelfth—below the average of 1833 and 1834 by about one-sixth—and below the average of the six years previous to emancipation by about one-fourth—a deficiency which, after making the above-mentioned allowances, will scarcely appear sufficient to justify any inference against the general prospects of the island, or the industrious dispositions of the negroes.

The produce of 1837 should have been a fairer instance. After the experience of the past year, the minds of the negroes were more settled; liberal wages were more generally offered; cultivation, which had been thrown up, was again extended; and thus the first three disadvantages, noted in the preceding list, were in great part removed. The official returns of the amount of produce imported during this year have not yet been published. It is known, however, that Jamaica has been visited during the last year with one of the severest droughts ever known; and it is understood that, owing to that cause and to it alone, the crop of 1837 is still shorter than that of 1836.

It appears then, upon the whole, that we have as yet no statistical data for an inference with regard to the future prospects of Jamaica; and that we must look for the promise of other years in the general progress and struggle from bad to good, and from good to better, which in the foregoing pages we have endeavoured to trace.

In the mean-time, we believe it will be found, that in spite of the diminution of produce, the actual income of the proprietary body has been increased and not diminished by the change;—as will appear from the following calculation, which, though not pretending to exactitude, is probably exact enough for the purpose.

For the six years immediately preceding the abolition of slavery, the average sugar crop in Jamaica was 1,362,748 cwt., and the average price about L.1, 6s. per cwt. For the years 1835 and 1836 the average crop has been 1,101,400 cwt., and the price about L.1, 17s. 7d.

Hence the value of a year's produce since the abolition would

be	.	.	.	.	.	.	L.2,069,794
Before	.	.	.	.	.	.	1,839,779

L.230,015

‘has raised the price here so enormously, that when estates are unembarrassed, most advantageous sales have been made in this island for the American market.’—*LORD SLIGO'S Despatch, 24th May, 1836. Parliamentary Papers, III., p. 375.*

And thus (assuming that the additional cost of production was not more than the interest of the compensation) we have a balance in favour of the Jamaica proprietors of more than L.230,000 sterling.

Our limits forbid us to follow our enquiry through the remaining colonies. Due allowance being made for the circumstances pointed out in the first part of this article, as distinguishing the case of Jamaica from the rest, the main features of the progress seem to have been much alike in all;—the same trifling agitations and misunderstandings at the outset, giving way with the same readiness before the friendly interference of the special magistrates or the governors, and subsiding with the same rapidity into tranquil, orderly, and not uncheerful industry. The various degrees of prosperity attained, and of ease in the attainment, may be, for the most part, accounted for by varieties of soil, climate, laws, or customs, into the consideration of which it is impossible to enter. A view of the general results in each colony (so far as the quantity of sugar made can be taken to represent them), will be found in the subjoined table. The first column gives the average proportion which the quantity of sugar annually raised bore to the numbers of the slave population, for the six years immediately preceding the abolition of slavery. It is intended as a kind of scale (a very rough one, it must be owned, but the best we have been able to invent), by which the comparative *productiveness* of the several colonies may be measured. According to this scale we arranged them, expecting to find that as in Jamaica the most niggardly management seems to have been the least prosperous, so the falling off of produce in the several colonies would bear some sort of proportion to their comparative wealth. The result has answered our expectations about as well as so rude an operation could admit; and if some necessary qualifications and corrections were introduced, it would answer much better.\*

This table does not otherwise present any result so striking as to call for explanation; unless it be the unexampled prosperity of British Guiana; which, under the threefold advantage of an exhaustless soil, a most intelligent and energetic governor, and *no* independent legislature, has been, from the very beginning, making uninterrupted advances in every direction.

\* The points in which the test fails with regard to the thickly inhabited Barbadoes are obvious enough.



	Average proportion of sugar to population.	Average sugar crop from 1829 to 1831, in cwts.	Average sugar crop in 1835 and 1836.	Difference per cent.
Virgin Islands,* . .	3.4	17,763	13,615	23.4 dec.
Montserrat, . . .	3.5	22,835	14,206	33.4 do.
Dominica, . . .	3.8	55,539	30,113	45.7 do.
Barbadoes, . . .	4.1	343,513	359,058	4.5 inc.
Jamaica,* . . .	4.3	1,362,798	1,101,400	19.3 dec.
St Lucia,* . . .	4.9	66,828	46,413	30.5 do.
St Kitts,* . . .	5	104,809	76,015	27.4 do.
Nevis, . . .	5.7	49,647	32,180	35.1 do.
Antigua, . . .	5.9	173,947	157,149	9.6 do.
Tobago, . . .	8.1	93,157	97,450	4.5 inc.
Grenada, . . .	8.5	200,708	163,295	18.6 dec.
St Vincents,* . . .	9.6	222,732	190,770	14.3 do.
B. Guiana, . . .	10.2	874,347	1,032,342	18.0 inc.
Trinidad, . . .	13.4	310,797	300,768	3.2 dec.

Thus much for the working of the Apprenticeship as it regards the Planters. Let us now enquire how it has worked for the Negroes.

We have already explained the relief which was designed for them; the causes, inherent or accidental, which were likely to interfere with the operation of that design; and the manner in which it has in some instances been actually thwarted. We have endeavoured to represent the matter faithfully; and we do not believe that in the picture which we have drawn, we have given to the exceptions less prominence than they deserved. But for the sake of presenting, in a clearer light, the amount of benefit which the Apprenticeship, with all its restrictions, drawbacks, and inconveniences, has already conferred upon the negroes, we must briefly recur to the subject.

We shall not pause again to enquire whether a probationary term of restricted liberty was really necessary; nor to explain why it is that liberty, with every restriction, is preferable to slavery with every indulgence,—the reign of justice, however armed with terror, to the reign of terror, however administered with justice. Enough that it was so decided. A certain quantity of labour was still to be enforced by law; certain powers of coercion were still necessary to enforce it. So far the condition of the appren-

\* In these colonies the crops had been gradually falling off before 1834.

tice was still to resemble that of the slave. But if the labour required of the apprentice is lighter than that exacted from the slave, and the means of enforcing it less painful or less terrible,—by so much is his condition improved, even though the moral elevation which has come to him,—the possession of duties, rights, and hopes,—be thrown aside as weightless in the scale.

Now, before the 1st of August, 1834, the great body of slaves in Jamaica were required, during seven months of the year, to work upwards of sixty hours weekly; during the remaining five, upwards of seventy. To make them work their best, the driver followed them with his cart-whip; which he used at his own and the overseer's discretion; either as a simple persuasive and stimulant to quicken their exertions; or as a summary punishment in case of negligence, insolence, or obstinacy; or as a ready instrument of passion and revenge in case of displeasure. Nor was this all. Where the whip was not terrible enough, there was the terror of the chain-gang, the chain and collar, the loathsome plantation dungeon, with its filth, darkness, solitude, and starvation. All these instruments of coercion were at the master's absolute disposal;—guarded only by some professed restrictions which notoriously came to nothing. This, then, is what slavery was,—these the alternatives to which every slave, man or woman, was daily liable to be reduced. Let us now turn to what Apprenticeship is.

In the first place, no apprentice is required to work, in or out of crop, for more than forty-five hours in the week; nor to work harder during these forty-five hours than the special magistrate, a disinterested English gentleman, shall think reasonable. In the second place, for refusing or neglecting to do such reasonable proportion of work, he cannot be punished without the express authority in writing of the special magistrate, who is sworn to use his authority justly, and liable to be deprived of it on the first proof of abuse. In the third place, even with that authority, he cannot be punished for such offence with more than twenty lashes. In the fourth place, no female apprentice can be punished with flogging at all. In the fifth place, no apprentice, male or female, can be made, for any offence whatever, to work beyond the ordinary time for more than fifteen hours during any one week; so that the full amount of labour which can be exacted as a punishment from the apprentice, is not more than the ordinary portion of the slave. In the sixth place, the worst offence which an apprentice can commit against the abolition law cannot be punished, on any authority whatever, with more than fifty lashes.

These, however, are the extreme limits of legal coercion; the

worst that an apprentice can possibly suffer. The question is what he does actually suffer, as compared with what he used to suffer in his former condition. This indeed cannot be exactly determined. How much use was made during slavery of the whip, the chain, and the dungeon, we can never know. Nor have we access to any records, though such records exist, from which the amount of punishment by imprisonment and hard labour which has been inflicted since the apprenticeship began, can be ascertained. Judging, however, from the reason of the case, and from such information as we do possess, we can have no doubt that the practical amelioration quite corresponds to the theoretical.

That the cart-whip was very freely used during slavery, may be inferred from the opinion then universal amongst slave-drivers, that nothing else could make the negroes work ;—an opinion since proved to be so merely and absolutely groundless, that its prevalence can only be accounted for by supposing that it had never before been put to the test.\* As for the other instruments of terror or torture, what use was made of them will not be known till every secret thing shall be brought to light. In the meantime, let us hope that they were only resorted to when ‘necessary’;—that is, when the sixty or seventy hours of weekly labour could not be obtained without them.

Now, on the 1st of August 1834, upwards of 300,000 slaves exchanged the coercion at will for the coercion ‘according to law’;—the overseer’s mercy for the special magistrate’s justice. Ever since, the number of punishments inflicted during each month has been steadily decreasing. By reference to a return annexed to the Jamaica Correspondence,\* it will be seen, that within the ten months ending in May 1836, punishments of all kinds had been reduced by about one-fourth; corporal punishments by not less than two-thirds. In taking, therefore, the general average on the whole of that period, we do the Apprenticeship less than justice; because we do not get any measure of its improving tendency. But let this pass. The monthly average of floggings inflicted during these ten months was not more than 3645; of punishments generally (including the lightest with the heaviest), not more than 3,302:—a dreadful amount indeed when compared with happier communities;—a degree of severity which, to those who have passionately pitied the negro till they have learned to regard him as an object of no feeling but pity,—who have hated his wrongs till they

\* Parliamentary Paper, III. p. 408.

have forgotten what his wrongs have made him,—may well seem intolerable—may well make 630,000 British ladies cry ‘shame,’ ‘shame,’ and demand the repeal of the law which sanctioned it. We also can sympathize with the emotion, though we may not yield to it. In our zeal against slavery, we have urged its brutalizing effect upon the character of the slave. In pleading the cause of the slave, we must not forget that therein we spoke the truth. The slave *is*—that which we have made him. In every community of slaves there must be a larger proportion than elsewhere, of such characters as, in this country, are marked for the tread-mill or the hulks. Let us not, however, mistake the exception for the rule; let us look at the face of the picture; let us learn the meaning of the result by comparing it, not with what England is, but with what Jamaica was.\* If during each month many apprentices have been punished, have not a hundred times as many gone unpunished? If many have been flogged, have not a thousand times as many gone unflogged? and have not all been relieved from one fourth of their former labours?

\* In British Guiana, a Crown colony, with the advantage of a slave protector, and an enforced return of all punishments inflicted on each estate,—therefore, probably not so bad a case as Jamaica,—we have the following progressive decrease of corporal punishments:—

	Period.	Average floggings per month.
1831	July to December,	1039
1832	Jan. to June,	860
1832--3	July to September,	734
1833--4	Oct. to April,	484
1834--5	Aug. to August,	181
1835	Aug.	88
—	Sept.	79
—	Oct.	77
—	Nov.	55
—	Dec.	21
1836	Jan.	47
—	Feb.	34
—	March	46
—	April	19
—	May	25

Since that time, we believe that flogging has been almost entirely discontinued in this well-governed colony.

In the Bahamas, it has been for some time abolished by law, owing to the excellent exertions of Sir William Colebrooke. We are truly glad to

Can it be said that before the 1st of August 1834, a single month ever passed in Jamaica, at the end of which 299,636 slaves could say, that not one of them had worked more than 180 hours\*—yet not one had felt the lash; and 296,698 of them could add, that they had not suffered any punishment of any kind, not even the terror of it?

But, it will be said, though these severities be all we hear of, who knows what goes on in secret? Who knows how many apprentices are daily robbed of their time, their food, their liberty; assaulted, terrified, overworked; and yet never complain; either because they do not know their rights; or because they dare not claim them? True, indeed; who does know? such things must no doubt have occurred. This law, like others, cannot have been carried perfectly into effect. Where a brutal overseer has met with a feeble magistrate, it is impossible to say how much advantage may have been taken of the ignorance of the negroes. Violence we know is occasionally committed; the twenty-four hours' confinement we know has been occasionally abused; sometimes hospitals have been made prisons under pretence of sanitary regulations. In the absence of clocks and watches, gangs may have been here and there worked beyond the legal hours. Special magistrates have been obstructed in their attempts to detect these offences. Indictments against detected offenders have been thrown out with contumely. But though it must be admitted that great *injustice* may have been extensively committed in these ways, it may be confidently asserted that great *cruelty* cannot.† Cruelties may have been inflicted in indivi-

find that the mild activity and earnest persuasive humanity of this gentleman, have now been transferred to the wider sphere of the Leeward Islands, of which he is Governor-in-Chief.

\* Strictly speaking, we should have excepted the *non-prædials*, whose weekly amount of labour has not been reduced. The nature of their occupations made this impracticable; but their period of apprenticeship was shortened in proportion, and they become absolutely free in August, 1839. The distinction, it will be seen, does not affect the argument.

† Mr O'Connell will not agree with us here. He believes, that it is the interest of the planters to 'work the negro out of his existence' before the end of the apprenticeship; that they are accordingly now about it; and that such necessary cruelty must therefore be now going on in Jamaica as may end in the death of the whole apprenticed population by the 1st of Aug. 1840. 'Already,' he says, 'the negro's life is counted by the hour—but before the expiration of the apprenticeship, it will be counted by the minute.' (See the proceedings of the Anti-Slavery meeting in Exeter Hall, on the 23d of November, as reported in the

dual cases, more than we dream of. Many we know have been brought to light by the merest accident. But had any considerable degree of cruelty been extensively or systematically carried on, it is hardly to be believed that complaints *could* have been effectually stifled. It is well known, in every district, that scarce a month passes in which some overseer is not punished on a complaint brought by some apprentice. The special magistrate is, generally speaking, studiously accessible to complaints. Even if the injured party wants the wit or the courage to complain himself, he has friends, missionaries or others, who will be glad to complain for him. Even if the special magistrate's ears should be closed (and among the seventy or eighty gentlemen who have filled that office some must have been harder of hearing than others), the governor's at least are open. And, in spite of some idle speeches which have been tossed about, we believe that both Lord Sligo and Sir Lionel Smith may frankly challenge all Aldermanbury to produce a single instance of a complaint made against a special magistrate and not enquired into; or of a magistrate convicted of misconduct and not either sharply reprimanded or shortly dismissed.

That the abuses practised in houses of correction have not been of an intolerable kind, we unfortunately have not a like assurance. There the local magistracy—the parish vestry—rules supreme. The regulations are at their entire disposal; and under that name lie cart-whips, chains, collars, and solitary cells, to which all prisoners, male and female, apprenticed and free, are alike exposed. The special magistrate's authority is set at nought; the governor himself cannot interfere; and all appeals to the Grand Court of Jamaica justice are voted nuisances. We are glad to find that an officer has been sent out specially to inspect these places. It is quite clear that some law is wanted here, and that the Jamaica constitution must again be violated, unless the Assembly think fit to pass one without delay.

Times.) This is one of those prodigious assertions which no ordinary mind is fit to generate. If Mr O'Connell had considered for a moment, he must have seen that no single case of this kind can by possibility occur. How can an apprentice be worked to death unless he wishes it? Though this was the *biggest* thing of the kind, it was not the only one uttered on that occasion. In fact, all the arguments derived their force from a single figure of speech;—that of representing whatever is not impossible as having been done, and whatever has been done once as having been done generally;—and of assuming, that, wherever any discretion has been permitted to a special magistrate, it has been carefully abused.

In the mean-time it must be remembered that, grievous as such things are, they are not to be taken as a measure of the working of the Apprenticeship; because the great mass of apprentices are, in fact, scarcely affected by them. Every effort has been made to detect abuses of this kind, in which apprentices have been the sufferers; and the number of those which have been brought to light, though very large considered by itself, bears no proportion to the body of the apprenticed population, and can hardly interrupt their ease, or retard their progress. And since these secrets have been revealed, the special magistrates have been instructed to abstain from committing apprentices to any house of correction where such atrocities can occur.\*

Here we must for the present take leave of Jamaica: we wait with interest, but without anxiety, for the sequel of the correspondence, which is shortly to appear. Mean-while we leave the interests of the apprentices in hands that may be trusted. Lord Sligo is indeed gone; but his place has been taken by Sir Lionel Smith; as different a man in many respects as could have been found; but one whose character for general zeal in the cause of humanity, for clearness of purpose, and plain vigour of execution, is above suspicion or reproach. We perceive by his last opening speech that he is still on courteous terms with the Assembly. So much the better. He is not a man to persevere in refreshing that parched land with idle compliments, if he shall see that no fruit is to come of it. The Assembly may before this hour have discerned and redeemed the time. If not, the hour has come when they may properly be assisted.

The condition of the Apprentices in the other colonies we cannot now discuss. Our readers will readily spare us an enquiry which, from the incompleteness of our information, could not be conducted within any reasonable limits to any profitable result. In its general aspect, their condition is undoubtedly not less favourable,—for the most part we should say much more favourable,—than in Jamaica. But as the same labourers have not been at work there, it is impossible to say how many individual cases of hardship might not be raked up from the bottom; nor how the general aspect might be changed if all these cases were carefully placed at the top.

Neither can we venture, in the short space which is left us, to penetrate the cloud which still hangs over the period beyond 1840, and which the experience of the last three years has not

\* See Lord Glenelg's Despatch, 14th June, 1836.—*Parl. Papers*, III. p. 306.

done much to clear away. Antigua, it is true, keeps up its crops nearly to the same extent as before; though at what increase of cost we are unable to ascertain. But there are very few of the colonies in which the labouring class, when free, will continue so dependent on the proprietors for their subsistence, as they are in Antigua. It is also true, that the apprentices almost every where work freely for hire: but because a labouring man, bound to work for forty-five hours during the week, is willing for two or three shillings to work a few hours more, it cannot safely be concluded that he will continue to live the life of a labouring man, when he finds that he can exchange it for a better. On the other hand, however, if we cannot say how much scarcer or dearer labour may become after 1840, neither can we say how much more may be made of it. It is easy to believe that half the number of hands now employed might be made to produce more sugar than is now raised. Till now, the total want of any free circulation of social interests and energies has rendered every attempt to economize labour both objectless and ineffectual. The amount of waste and refuse is therefore enormous. With the breaking up of the old system this will be changed. The command over industry will be lost, but its limits will be unbound. After 1840, every new invention, by which one pair of hands may be enabled to do the work of two; every new division of employments, by which two pair may be enabled to do the work of three; will have its separate value. In this field hope may range at will, for every thing is yet to be done. It must, however, be admitted that those colonies which have been forcing the cultivation of sugar against natural disadvantages may, in the end, have partly to give it up. How far this is to be deprecated is a question which we cannot stay to consider. For the present we would only refer to the example of the Bahama Islands, which, barren and scattered as they are, appear to be rapidly covering themselves with flourishing townships, and a contented peasantry, as suggesting a hope that, even where the present field of production must be deserted, other sources of social prosperity may discover themselves;—that the reduction of commercial importance may not leave the land naked, but may be silently replaced by new undergrowths of industry, humbler perhaps, but more natural, wholesome, and enduring.

In the mean-time we shall content ourselves with repeating our conviction, that the results of this measure, so far as it has yet proceeded, are matter of just and earnest congratulation; and with expressing a hope that all parties will exert themselves to make the best of it, and not the worst. The planters, to judge by their silence, have hope; let them show it



in liberality and enterprise. Why should they fold their hands together, and eat their own flesh? The *Friends* and the *Ladies* are disappointed. Be it so. It spurs them to labours, which, upon the whole, are good. We do not desire that Aldermanbury should sleep. Humanity, even when it runs wild, is a noble passion; and the best Government will be the better for being troubled. One thing, however, we do desire of them—to be a little nicer as to what they believe, and a little more cautious as to what they infer:—but above all, not to labour to persuade the world that the greatest work which has been done in these times, and at the noblest sacrifice, has been done in vain; that the cause of human nature, which has borne all else, has not borne the test of success; that this, perhaps the noblest example ever set to the nations, is one to be shunned not followed. For be they well assured they will far sooner persuade the world that the first step out of slavery is pernicious to the slave, than that the first step into freedom is beneficial to the planter.

*NOTE to the Article on The Education Bill.*

SINCE the above Article was written, we have received a copy of a Translation, just published, of M. Cousin's Treatise on 'The State of Education in Holland, as regards Schools for the Working Classes,' by Leonard Horner, F.R.S., accompanied with some Preliminary observations by the Translator. The work of M. Cousin, like all his former publications of a similar kind, is replete with valuable information; and Mr Horner's Translation of it is executed with such fidelity and elegance as to produce the most favourable impressions both of his general knowledge and his skill in this department of Literature. But his prefatory observations surprise us, and that in no ordinary degree; for they are mainly directed against Lord Brougham's Measure, which, as altered and amended in the Bill lately introduced into the House of Peers by his Lordship, it is, nevertheless, very plain Mr Horner has not taken the trouble to examine! Incredible as the thing may appear, his whole observations are directed against the previous Bill of 1835, reprinted in June last, with some additions; and he accordingly employs himself in combating Provisions altogether foreign to the Measure in its present shape. Thus we find him pointing out as amongst its radical defects and blemishes, that it appoints the Lord Privy Seal, &c. members of the Education Board; that it makes the three Life Commissioners Lawyers; and, worst of all, that it gives the Board power to establish schools on whatever plan it pleases; whereas, if he had taken the trouble, as in all honesty and fairness he was bound to do, to peruse the Bill, as amended and circulated before his book was published, he would have found, that, in these and other instances, he had been very idly and ineptly engaged in objecting to proposals which existed only in his own fancies! We are truly sorry to see a man of Mr Horner's respectability and liberality of sentiment, from mere precipitancy and carelessness, thus lending a helping hand to those who, either from dislike to the quarter in which the Bill originated, or to all plans for the improvement of the lower orders, have been doing their best to misrepresent and discredit it. He has thus unwittingly leagued himself with persons whose petty hostility and narrow views he must in his heart despise and reprobate. These strange misrepresentations do not, however, in the least interfere with the utility of his Translation, which we cordially recommend to all who are desirous of information on its truly interesting subject.

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